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The Code of Federal Regulations is sold by the Superintendent of Documents.

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[TD 9812]

RIN 1545–BL00

Guidance for Determining Stock Ownership; Correction

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Correcting amendments.

SUMMARY: This document contains corrections to the final regulations (T.D. 9812) that were published in the **Federal Register** on Wednesday, January 18, 2017. The regulations identify certain stock of a foreign corporation that is disregarded in calculating ownership of the foreign corporation for purposes of determining whether it is a surrogate foreign corporation.

DATES: These corrections are effective on September 7, 2017, and applicable beginning January 13, 2017.

FOR FURTHER INFORMATION CONTACT: Joshua G. Rabon, (202) 317–6938 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Background

The final regulations that are the subject of this correction are under section 7874 of the Internal Revenue Code.

Need for Correction

As published, the final regulations contain errors that may prove to be misleading and need to be clarified.

List of Subjects in 26 CFR Part 1

Income taxes, Reporting and recordkeeping requirements.

Correction of Publication

Accordingly, 26 CFR part 1 is corrected by making the following correcting amendments:

PART 1—INCOME TAXES

■ **Paragraph 1.** The authority citation for part 1 continues to read in part as follows:

Authority: 26 U.S.C. 7805 * * *

■ **Par. 2.** Section 1.7874–4 is amended by revising paragraphs (i)(2)(iii)(A), (i)(2)(iii)(C) introductory text, and (i)(2)(iii)(C)(*2*) to read as follows:

§ 1.7874–4 Disregard of certain stock related to the domestic entity acquisition.

* * * * *

(i) * * *

(2) * * *

(iii) * * *

(A) A member of the expanded affiliated group, unless the holder of the obligation immediately before the domestic entity acquisition and any related transaction (or its successor) is a member of the expanded affiliated group after the domestic entity acquisition and all related transactions. See *Example 6* of paragraph (j) of this section for an illustration of this paragraph (i)(2)(iii)(A).

* * * * *

(C) A person, other than a member of the expanded affiliated group, that, before or after the domestic entity acquisition, either owns (applying the attribution rules of section 318(a) with the modifications described in section 304(c)(3)(B)) at least five percent (by vote or value) of the stock of (or partnership interests in) or is related (within the meaning of section 267 or 707(b)) to—

* * * * *

(*2*) A person described in paragraph (i)(2)(iii)(B) of this section.

* * * * *

Martin V. Franks,

Chief, Publications and Regulations Branch, Legal Processing Division (Associate Chief Counsel), Procedure and Administration.

[FR Doc. 2017–18983 Filed 9–6–17; 8:45 am]

BILLING CODE 4830–01–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R01–OAR–2013–0089; A–1–FRL–9967–28–Region 1]

Air Plan Approval; Maine; New Motor Vehicle Emission Standards

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is approving a State Implementation Plan (SIP) revision submitted by the State of Maine on August 18, 2015. This SIP revision includes Maine's revised regulation for new motor vehicle emission standards. Maine has updated its rule to be consistent with various updates made to California's low emission vehicle (LEV) program. Maine has adopted these revisions to reduce emissions of volatile organic compounds (VOC) and nitrogen oxides (NO_X) in accordance with the requirements of the Clean Air Act (CAA), as well as to reduce greenhouse gases. The intended effect of this action is to approve Maine's August 15, 2015 SIP revision. This action is being taken in accordance with the Clean Air Act.

DATES: This rule is effective on October 10, 2017.

ADDRESSES: EPA has established a docket for this action under Docket Identification No. EPA–R01–OAR–2013–0089. All documents in the docket are listed on the *http://www.regulations.gov* Web site. Although listed in the index, some information is not publicly available, *i.e.,* CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available at *http://www.regulations.gov* or at the U.S. Environmental Protection Agency, EPA New England Regional Office, Office of Ecosystem Protection, Air Quality Planning Unit, 5 Post Office Square—Suite 100, Boston, MA. EPA requests that if at all possible, you contact the contact listed in the **FOR FURTHER INFORMATION CONTACT** section to schedule your inspection. The Regional Office's official hours of business are

Monday through Friday, 8:30 a.m. to 4:30 p.m., excluding legal holidays.

FOR FURTHER INFORMATION CONTACT: Eric Rackauskas, Air Quality Planning Unit, U.S. Environmental Protection Agency, EPA New England Regional Office, 5 Post Office Square, Suite 100 (Mail Code: OEP05–2), Boston, MA 02109–3912, telephone number (617) 918–1628, fax number (617) 918–0628, email *rackauskas.eric@epa.gov.*

SUPPLEMENTARY INFORMATION: Throughout this document whenever ''we,'' ''us,'' or ''our'' is used, we mean EPA.

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I. Background and Purpose

On June 23, 2017 (82 FR 28611), EPA published a Notice of Proposed Rulemaking (NPR) for the State of Maine. The NPR proposed approval of Maine's Chapter 127, ''New Motor Vehicle Emission Standards.'' The regulation establishes motor vehicle emission standards for new gasoline powered passenger cars, light-duty trucks, medium-duty vehicles, as well as for heavy-duty diesel vehicles. The regulation also requires that vehicles display an environmental performance label, and that aftermarket catalytic converters be certified to the California Air Resources Board (CARB) standards. Maine has worked to ensure that their program is identical to California's, as required by the CAA. The formal SIP revision was submitted by Maine on August 18, 2015.

A detailed discussion of Maine's August 18, 2015 SIP revision and EPA's rationale for proposing approval of the SIP revision were provided in the NPR and will not be restated in this notice. EPA received several comments in support of approving Maine's SIP revision in response to the NPR. No adverse comments were received.

II. Final Action

EPA is approving Maine's August 18, 2015 SIP revision. Specifically, EPA is approving Maine's revised Chapter 127, ''New Motor Vehicle Emission Standards,'' and incorporating it into the Maine SIP. EPA is approving this SIP revision because it meets all applicable requirements of the Clean Air Act and relevant EPA guidance, and it will not interfere with attainment or maintenance of the ozone NAAQS.

III. Incorporation by Reference

In this rule, the EPA is finalizing regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, the EPA is finalizing the incorporation by reference of the State of Maine's revised Chapter 127 described in the amendments to 40 CFR part 52 set forth below. The EPA has made, and will continue to make, these documents generally available through *http://www.regulations.gov.*

IV. Statutory and Executive Order Reviews

Under the Clean Air Act, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the Clean Air Act. Accordingly, this action merely approves state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this action:

- Is not a significant regulatory action subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4);
- Does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- Is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the Clean Air Act; and
- Does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, the SIP is not approved to apply on any Indian reservation land or in any other area where EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the rule does not have tribal implications and will not impose substantial direct costs on tribal governments or preempt tribal law as specified by Executive Order 13175 (65 FR 67249, November 9, 2000).

The Congressional Review Act, 5 U.S.C. 801 *et seq.,* as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this action and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a ''major rule'' as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by November 6, 2017. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Incorporation by reference, Intergovernmental relations, Lead, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

Dated: August 10, 2017.

Deborah A. Szaro,

Acting Regional Administrator, EPA New England.

Part 52 of chapter I, title 40 of the Code of Federal Regulations is amended as follows:

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

■ 1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401 *et seq.*

Subpart U—Maine

■ 2. In § 52.1020, the table in paragraph (c) is amended by revising the entry for ''Chapter 127 and Appendix A'' to read as follows:

§ 52.1020 Identification of plan.

* * * * *

(c) * * *

EPA-APPROVED MAINE REGULATIONS

State citation	Title/subject	State effective date	EPA approval date and citation [1]	Explanations
*	*	*	* *	* *
Chapter 127 and Appendix A.	New Motor Vehicle Emission Standards.	5/19/2015	9/7/2017 [Insert **Federal Register** citation].	Includes LEV II GHG and ZEV provisions, and Advanced Clean Cars program (LEV III, updated GHG and ZEV standards).
*	*	*	* *	* *

[1] In order to determine the EPA effective date for a specific provision listed in this table, consult the **Federal Register** notice cited in this column for the particular provision.

* * * * *

[FR Doc. 2017–18873 Filed 9–6–17; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[EPA–HQ–OPP–2016–0755; FRL–9963–98]

Poly(oxy-1,2-ethanediyl), α-isooctyl-ω-hydroxy; Exemption From the Requirement of a Tolerance

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This regulation amends an exemption from the requirement of a tolerance for residues of α-alkyl-ω-hydroxypoly(oxypropylene) and/or poly (oxyethylene) polymers where the alkyl chain contains a minimum of six carbons, and a minimum number average molecular weight (in amu) 1,100 (herein referred to as ''AAAs'' (alkyl alcohol alkoxylates)) to include Poly(oxy-1,2-ethanediyl), α-isooctyl-ω-hydroxy (CAS Reg. No. 61723–78–2) when used as an inert ingredient (surfactant, related adjuvants of surfactants) in pesticide formulations. The Spring Trading Company on behalf of Sasol Chemicals (USA) submitted a petition to EPA under the Federal Food, Drug, and Cosmetic Act (FFDCA), requesting an amendment to an existing exemption from the requirement of a tolerance. This regulation eliminates the need to establish a maximum permissible level for residues of poly(oxy-1,2-ethanediyl), α-isooctyl-ω-hydroxy.

DATES: This regulation is effective September 7, 2017. Objections and requests for hearings must be received on or before November 6, 2017, and must be filed in accordance with the instructions provided in 40 CFR part 178 (see also Unit I.C. of the **SUPPLEMENTARY INFORMATION**).

ADDRESSES: The docket for this action, identified by docket identification (ID) number EPA–HQ–OPP–2016–0755, is available at *http://www.regulations.gov* or at the Office of Pesticide Programs Regulatory Public Docket (OPP Docket) in the Environmental Protection Agency Docket Center (EPA/DC), West William Jefferson Clinton Bldg., Rm. 3334, 1301 Constitution Ave. NW., Washington, DC 20460–0001. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566–1744, and the telephone number for the OPP Docket is (703) 305–5805. Please review the visitor instructions and additional information about the docket available at *http://www.epa.gov/dockets.*

FOR FURTHER INFORMATION CONTACT: Michael Goodis, Registration Division (7505P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave. NW., Washington, DC 20460–0001; main telephone number: (703) 305–7090; email address: *RDFRNotices@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this action apply to me?

You may be potentially affected by this action if you are an agricultural producer, food manufacturer, or pesticide manufacturer. The following list of North American Industrial Classification System (NAICS) codes is not intended to be exhaustive, but rather provides a guide to help readers determine whether this document applies to them. Potentially affected entities may include:

- Crop production (NAICS code 111).
- Animal production (NAICS code 112).
- Food manufacturing (NAICS code 311).
- Pesticide manufacturing (NAICS code 32532).

B. How can I get electronic access to other related information?

You may access a frequently updated electronic version of 40 CFR part 180 through the Government Printing Office's e-CFR site at *http://www.ecfr.gov/cgi-bin/text-idx?&c=ecfr&tpl=/ecfrbrowse/Title40/40tab_02.tpl.*

C. How can I file an objection or hearing request?

Under FFDCA section 408(g), 21 U.S.C. 346a, any person may file an objection to any aspect of this regulation and may also request a hearing on those objections. You must file your objection or request a hearing on this regulation in accordance with the instructions provided in 40 CFR part 178. To ensure proper receipt by EPA, you must identify docket ID number EPA–HQ–

OPP–2016–0755 in the subject line on the first page of your submission. All objections and requests for a hearing must be in writing, and must be received by the Hearing Clerk on or before November 6, 2017. Addresses for mail and hand delivery of objections and hearing requests are provided in 40 CFR 178.25(b).

In addition to filing an objection or hearing request with the Hearing Clerk as described in 40 CFR part 178, please submit a copy of the filing (excluding any Confidential Business Information (CBI)) for inclusion in the public docket. Information not marked confidential pursuant to 40 CFR part 2 may be disclosed publicly by EPA without prior notice. Submit the non-CBI copy of your objection or hearing request, identified by docket ID number EPA–HQ–OPP–2016–0755, by one of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the online instructions for submitting comments. Do not submit electronically any information you consider to be CBI or other information whose disclosure is restricted by statute.
- *Mail:* OPP Docket, Environmental Protection Agency Docket Center (EPA/DC), (28221T), 1200 Pennsylvania Ave. NW., Washington, DC 20460–0001.
- *Hand Delivery:* To make special arrangements for hand delivery or delivery of boxed information, please follow the instructions at *http://www.epa.gov/dockets/contacts.html.*

Additional instructions on commenting or visiting the docket, along with more information about dockets generally, is available at *http://www.epa.gov/dockets.*

II. Petition for Exemption

In the **Federal Register** of August 5, 2009 (74 FR 38935) (FRL–8430–1), EPA issued a final rule that established an exemption from the requirements of a tolerance for (residues) of α-alkyl-ω-hydroxypoly(oxypropylene) and/or poly (oxyethylene) polymers where the alkyl chain contains a minimum of six carbons, and a minimum number average molecular weight (in amu) 1,100 [herein referred to as ''AAAs'' (alkyl alcohol alkoxylates)] when used as an inert ingredient in pesticide formulations. The exemption from the requirement of a tolerance was established for residues of the lower molecular weight of α-alkyl-ω-hydroxypoly(oxypropylene) and/or poly (oxyethylene) polymers where the alkyl chain contains a minimum of six carbons when used as an inert ingredient in pesticide formulations applied pre- and post-harvest, applied to livestock, and used in antimicrobial formulations under 40 CFR 180.910, 40 CFR 180.930, and 40 CFR 180.940(a). In addition, an exemption from the requirement of a tolerance was established for residues of larger molecular weight compounds of α-alkyl-ω-hydroxypoly(oxypropylene) and/or poly (oxyethylene) polymers where the alkyl chain contains a minimum of six carbons under 40 CFR 180.960. The individual chemicals covered by the exemption are identified by CAS Reg. Nos.

In the **Federal Register** of June 8, 2017 (Volume 82 FR 26641) (FRL–9961–14), EPA issued a document pursuant to FFDCA section 408, 21 U.S.C. 346a, announcing the filing of a pesticide petition (PP IN–10990) by The Spring Trading Company, (203 Dogwood Trail, Magnolia, TX 77354) on behalf of Sasol Chemicals (USA) LLC, (12120 Wickchester Lane, Houston, TX 77079). The petition requested that 40 CFR 180.910, 180.930, 180.940(a) and 180.960 be amended by modifying the exemptions from the requirement of a tolerance for residues of AAAs by adding residues of poly(oxy-1,2-ethanediyl), α-isooctyl-ω-hydroxy, identified by CAS Reg. No. 61723–78–2, which meets the chemical identity α-alkyl-ω-hydroxypoly (oxypropylene) and/or poly (oxyethylene) polymers where the alkyl chain contains a minimum of six carbons. In cases where the minimum number average molecular weight is 1,100 or more, the request is to include the alcohols, $C_{>14}$, ethoxylated in the group of substances named under 40 CFR 180.960. For lower molecular weights the request is to amend the existing exemptions from the requirement of a tolerance under 40 CFR 180.910, 180.930 and 180.940(a).

Based upon review of the data supporting the petition, EPA has confirmed that the requested CAS Reg. No. 61723–78–2 is acceptable for inclusion under the currently approved descriptor. This determination is based on the Agency's risk assessment which can be found at *http://www.regulations.gov in document* IN–10990; Poly(oxy-1,2-ethanediyl), α-isooctyl-ω-hydroxy: Human Health Risk Assessment and Ecological Effects Assessment to Support Proposed Exemption from the Requirement of a Tolerance When Used as an Inert Ingredient in Pesticide Formulations which can be found in docket ID number EPA–HQ–OPP–2016–0755.

III. Inert Ingredient Definition

Inert ingredients are all ingredients that are not active ingredients as defined in 40 CFR 153.125 and include, but are not limited to, the following types of ingredients (except when they have a pesticidal efficacy of their own): Solvents such as alcohols and hydrocarbons; surfactants such as polyoxyethylene polymers and fatty acids; carriers such as clay and diatomaceous earth; thickeners such as carrageenan and modified cellulose; wetting, spreading, and dispersing agents; propellants in aerosol dispensers; microencapsulating agents; and emulsifiers. The term ''inert'' is not intended to imply nontoxicity; the ingredient may or may not be chemically active. Generally, EPA has exempted inert ingredients from the requirement of a tolerance based on the low toxicity of the individual inert ingredients.

IV. Aggregate Risk Assessment and Determination of Safety

Section 408(c)(2)(A)(i) of FFDCA allows EPA to establish an exemption from the requirement for a tolerance (the legal limit for a pesticide chemical residue in or on a food) only if EPA determines that the tolerance is ''safe.'' Section 408(b)(2)(A)(ii) of FFDCA defines ''safe'' to mean that ''there is a reasonable certainty that no harm will result from aggregate exposure to the pesticide chemical residue, including all anticipated dietary exposures and all other exposures for which there is reliable information.'' This includes exposure through drinking water and in residential settings, but does not include occupational exposure. Section 408(b)(2)(C) of FFDCA requires EPA to give special consideration to exposure of infants and children to the pesticide chemical residue in establishing a tolerance and to ''ensure that there is a reasonable certainty that no harm will result to infants and children from aggregate exposure to the pesticide chemical residue. . . .''

EPA establishes exemptions from the requirement of a tolerance only in those cases where it can be clearly demonstrated that the risks from aggregate exposure to pesticide chemical residues under reasonably foreseeable circumstances will pose no appreciable risks to human health. In order to determine the risks from aggregate exposure to pesticide inert ingredients, the Agency considers the toxicity of the inert in conjunction with possible exposure to residues of the inert ingredient through food, drinking water, and through other exposures that occur as a result of pesticide use in residential settings. If EPA is able to determine that a finite tolerance is not necessary to ensure that there is a reasonable certainty that no harm will

result from aggregate exposure to the inert ingredient, an exemption from the requirement of a tolerance may be established.

Consistent with FFDCA section 408(c)(2)(A), and the factors specified in FFDCA section 408(c)(2)(B), EPA has reviewed the available scientific data and other relevant information in support of this action. EPA has sufficient data to assess the hazards of and to make a determination on aggregate exposure for AAAs including exposure resulting from the exemption established by this action. EPA's assessment of exposures and risks associated with AAAs follows.

The Agency agrees with the petitioner that poly(oxy-1,2-ethanediyl), α-isooctyl-ω-hydroxy-, CAS Reg. No. 61723–78–2 is an AAA having a molecular structure conforming to the chemical description given in the tolerance exemption expression, *i.e.,* α-alkyl-ω-hydroxypoly (oxypropylene) and/or poly (oxyethylene) polymers where the alkyl chain contains a minimum of six carbons and which do not contain additional structural elements that are not included within the tolerance exemption expression description. In 2009, in establishing the exemption for the AAAs, EPA assessed their safety generally using worst case exposure assumptions (August 5, 2009; 74 FR 38935). EPA concluded based on that assessment that exempting the AAAs from the requirement from a tolerance would be safe. Inclusion of additional chemicals that are part of the group described above in the risk assessment for the AAAs would in no way alter that prior risk assessment given the generic findings on toxicity and the worst case exposure assumptions used in that risk assessment. Accordingly, based on the findings in that earlier rule, and the finding that poly(oxy-1,2-ethanediyl), α-isooctyl-ω-hydroxy-, CAS Reg. No. 61723–78–2 fits within the description of AAAs that were the subject of that rule, EPA has determined that there is a reasonable certainty that no harm to any population subgroup, including infants and children, will result from aggregate exposure to AAAs, including the additional chemical described above, as inert ingredients in pesticide products under reasonably foreseeable circumstances. Therefore, the amendment of exemptions from the requirement of a tolerance under 40 CFR 180.910, 180.930, 180.940(a), and 180.960, for residues of AAAs to add the chemical described above, is safe under FFDCA section 408.

V. Other Considerations

A. Analytical Enforcement Methodology

An analytical method is not required for enforcement purposes since the Agency is establishing an exemption from the requirement of a tolerance without any numerical limitation.

B. International Residue Limits

In making its tolerance decisions, EPA seeks to harmonize U.S. tolerances with international standards whenever possible, consistent with U.S. food safety standards and agricultural practices. EPA considers the international maximum residue limits (MRLs) established by the Codex Alimentarius Commission (Codex), as required by FFDCA section 408(b)(4). The Codex Alimentarius is a joint U.N. Food and Agriculture Organization/World Health Organization food standards program, and it is recognized as an international food safety standards-setting organization in trade agreements to which the United States is a party. EPA may establish a tolerance that is different from a Codex MRL; however, FFDCA section 408(b)(4) requires that EPA explain the reasons for departing from the Codex level.

The Codex has not established a MRL for AAAs.

C. Response to Comments—No Comments Have Been Received

VI. Conclusions

Therefore, the exemptions from the requirement of a tolerance under 40 CFR 180.910, 180.930, 180.940(a), and 180.960 for α-alkyl-ω-hydroxypoly (oxypropylene) and/or poly (oxyethylene) polymers where the alkyl chain contains a minimum of six carbons when used as an inert ingredient as a surfactant in pesticide formulations applied to growing crops, animals, or food contact surfaces are amended to add the CAS Reg. No. 61723–78–2 to the description of AAAs.

VII. Statutory and Executive Order Reviews

This final rule establishes a tolerance under section 408(d) of FFDCA in response to a petition submitted to the Agency. The Office of Management and Budget (OMB) has exempted these types of actions from review under Executive Order 12866, entitled *Regulatory Planning and Review* (58 FR 51735, October 4, 1993). Because this final rule has been exempted from review under Executive Order 12866, this final rule is not subject to Executive Order 13211, entitled *Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use* (66 FR 28355, May 22, 2001) or Executive Order 13045, entitled *Protection of Children from Environmental Health Risks and Safety Risks* (62 FR 19885, April 23, 1997). This final rule does not contain any information collections subject to OMB approval under the Paperwork Reduction Act (PRA), 44 U.S.C. 3501 *et seq.,* nor does it require any special considerations under Executive Order 12898, entitled *Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations* (59 FR 7629, February 16, 1994).

Since tolerances and exemptions that are established on the basis of a petition under section 408(d) of FFDCA, such as the tolerance in this final rule, do not require the issuance of a proposed rule, the requirements of the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*) do not apply.

This final rule directly regulates growers, food processors, food handlers, and food retailers, not States or tribes, nor does this action alter the relationships or distribution of power and responsibilities established by Congress in the preemption provisions of section 408(n)(4) of FFDCA. As such, the Agency has determined that this action will not have a substantial direct effect on States or tribal governments, on the relationship between the national government and the States or tribal governments, or on the distribution of power and responsibilities among the various levels of government or between the Federal Government and Indian tribes. Thus, the Agency has determined that Executive Order 13132, entitled *Federalism* (64 FR 43255, August 10, 1999) and Executive Order 13175, entitled *Consultation and Coordination with Indian Tribal Governments* (65 FR 67249, November 9, 2000) do not apply to this final rule. In addition, this final rule does not impose any enforceable duty or contain any unfunded mandate as described under Title II of the Unfunded Mandates Reform Act of 1995 (UMRA) (Pub. L. 104–4).

This action does not involve any technical standards that would require Agency consideration of voluntary consensus standards pursuant to section 12(d) of the National Technology Transfer and Advancement Act of 1995 (NTTAA), Public Law 104–113, section 12(d) (15 U.S.C. 272 note).

VIII. Congressional Review Act

Pursuant to the Congressional Review Act (5 U.S.C. 801 *et seq.*), EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller

General of the United States prior to publication of the rule in the **Federal Register**. This action is not a ''major rule'' as defined by 5 U.S.C. 804(2).

List of Subjects in 40 CFR Part 180

Environmental protection, Administrative practice and procedure, Agricultural commodities, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: July 7, 2017.

Michael Goodis,

Director, Registration Division, Office of Pesticide Programs.

Therefore, 40 CFR chapter I is amended as follows:

PART 180—[AMENDED]

■ 1. The authority citation for part 180 continues to read as follows:

Authority: 21 U.S.C. 321(q), 346a and 371.

■ 2. In § 180.910, revise the inert ingredient(s) in the table to read as follows:

§ 180.910 Inert ingredients used pre- and post-harvest; exemptions from the requirement of a tolerance.

* * * * *

Inert ingredients	Limits	Uses
* * * * *	*	*
α-Alkyl-ω-hydroxypoly (oxypropylene) and/or poly (oxyethylene) polymers where the alkyl chain contains a minimum of six carbons (CAS Reg. Nos.: 9002–92–0; 9004–95–9; 9004–98–2; 9005–00–9; 9035–85–2; 9038–29–3; 9038–43–1; 9040–05–5; 9043–30–5; 9087–53–0; 25190–05–0; 24938–91–8; 25231–21–4; 251553–55–6; 26183–52–8; 26468–86–0; 26636–39–5; 27252–75–1; 27306–79–2; 31726–34–8; 34398–01–1; 34398–05–5; 37251–67–5; 37311–00–5; 37311–01–6; 37311–02–7; 37311–04–9; 39587–22–9; 50861–66–0; 52232–09–4; 52292–17–8; 52609–19–5; 57679–21–7; 59112–62–8; 60828–78–6; 61702–78–1; 61723–78–2; 61725–89–1; 61791–13–7; 61791–20–6; 61791–28–4; 61804–34–0; 61827–42–7; 61827–84–7; 62648–50–4; 63303–01–5; 63658–45–7; 63793–60–2; 64366–70–7; 64415–24–3; 64415–25–4; 64425–86–1; 65104–72–5; 65150–81–4; 66455–14–9: 66455–15–0; 67254–71–1; 67763–08–0; 68002–96–0; 68002–97–1; 68131–39–5; 68131–40–8; 68154–96–1; 68154–97–2; 68154–98–3; 68155–01–1; 68213–23–0; 68213–24–1; 68238–81–3; 68238–82–4; 68409–58–5; 68409–59–6; 68439–30–5; 68439–45–2; 68439–46–3; 68439–48–5; 68439–49–6; 68439–50–9; 68439–51–0; 68439–53–2; 68439–54–3; 68458–88–8; 68526–94–3; 68526–95–4; 68551–12–2; 68551–13–3; 68551–14–4; 68603–20–3; 68603–25–8; 68920–66–1; 68920–69–4; 68937–66–6; 68951–67–7; 68954–94–9; 68987–81–5; 68991–48–0; 69011–36–5; 69013–18–9; 69013–19–0; 69227–20–9; 69227–21–0; 69227–22–1; 69364–63–2; 70750–27–5; 70879–83–3; 70955–07–6; 71011–10–4; 71060–57–6; 71243–46–4; 72066–65–0; 72108–90–8; 72484–69–6; 72854–13–8; 72905–87–4; 73018–31–2; 73049–34–0; 74432–13–6; 74499–34–6; 78330–19–5; 78330–20–8; 78330–21–9; 78330–23–1; 79771–03–2; 84133–50–6; 85422–93–1; 97043–91–9; 97953–22–5; 102782–43–4; 103331–86–8; 103657–84–7; 103657–85–8; 103818–93–5; 103819–03–0; 106232–83–1; 111905–54–5; 116810–31–2; 116810–32–3; 116810–33–4; 120313–48–6; 120944–68–5; 121617–09–2; 126646–02–4; 126950–62–7; 127036–24–2; 139626–71–4; 152231–44–2; 154518–36–2; 157627–86–6; 157627–88–8; 157707–41–0; 157707–43–2; 159653–49–3; 160875–66–1; 160901–20–2; 160901–09–7; 160901–19–9; 161025–21–4; 161025–22–5; 166736–08–9; 169107–21–5; 172588–43–1; 176022–76–7; 196823–11–7; 287935–46–0; 288260–45–7; 303176–75–2; 954108–36–2).	.....	Surfactants, related adjuvants of surfactants.
* * * * *	*	*

■ 3. In § 180.930, the table is amended by revising the following inert ingredients to read as follows:

§ 180.930 Inert ingredients applied to animals; exemptions from the requirement of a tolerance.

* * * * *

Inert ingredients	Limits	Uses
* * * * * * *		
α-Alkyl-ω-hydroxypoly (oxypropylene) and/or poly (oxyethylene) polymers where the alkyl chain contains a minimum of six carbons (CAS Reg. Nos.: 9002–92–0; 9004–95–9; 9004–98–2; 9005–00–9; 9035–85–2; 9038–29–3; 9038–43–1; 9040–05–5; 9043–30–5; 9087–53–0; 25190–05–0; 24938–91–8; 25231–21–4; 251553–55–6; 26183–52–8; 26468–86–0; 26636–39–5; 27252–75–1; 27306–79–2; 31726–34–8; 34398–01–1; 34398–05–5; 37251–67–5; 37311–00–5; 37311–01–6; 37311–02–7; 37311–04–9; 39587–22–9; 50861–66–0; 52232–09–4; 52292–17–8; 52609–19–5; 57679–21–7; 59112–62–8; 60828–78–6; 61702–78–1; 61723–78–2; 61725–89–1; 61791–13–7; 61791–20–6; 61791–28–4; 61804–34–0; 61827–42–7; 61827–84–7; 62648–50–4; 63303–01–5; 63658–45–7; 63793–60–2; 64366–70–7; 64415–24–3; 64415–25–4; 64425–86–1; 65104–72–5; 65150–81–4; 66455–14–9: 66455–15–0; 67254–71–1; 67763–08–0; 68002–96–0; 68002–97–1; 68131–39–5; 68131–40–8; 68154–96–1; 68154–97–2; 68154–98–3; 68155–01–1; 68213–23–0; 68213–24–1; 68238–81–3; 68238–82–4; 68409–58–5; 68409–59–6; 68439–30–5; 68439–45–2; 68439–46–3; 68439–48–5; 68439–49–6; 68439–50–9; 68439–51–0; 68439–53–2; 68439–54–3; 68458–88–8; 68526–94–3; 68526–95–4; 68551–12–2; 68551–13–3; 68551–14–4; 68603–20–3; 68603–25–8; 68920–66–1; 68920–69–4; 68937–66–6; 68951–67–7; 68954–94–9; 68987–81–5; 68991–48–0; 69011–36–5; 69013–18–9; 69013–19–0; 69227–20–9; 69227–21–0; 69227–22–1; 69364–63–2; 70750–27–5; 70879–83–3; 70955–07–6; 71011–10–4; 71060–57–6; 71243–46–4; 72066–65–0; 72108–90–8; 72484–69–6; 72854–13–8; 72905–87–4; 73018–31–2; 73049–34–0; 74432–13–6; 74499–34–6; 78330–19–5; 78330–20–8; 78330–21–9; 78330–23–1; 79771–03–2; 84133–50–6; 85422–93–1; 97043–91–9; 97953–22–5; 102782–43–4; 103331–86–8; 103657–84–7; 103657–85–8; 103818–93–5; 103819–03–0; 106232–83–1; 111905–54–5; 116810–31–2; 116810–32–3; 116810–33–4; 120313–48–6; 120944–68–5; 121617–09–2; 126646–02–4; 126950–62–7; 127036–24–2; 139626–71–4; 152231–44–2; 154518–36–2; 157627–86–6; 157627–88–8; 157707–41–0; 157707–43–2; 159653–49–3; 160875–66–1; 160901–20–2; 160901–09–7; 160901–19–9; 161025–21–4; 161025–22–5; 166736–08–9; 169107–21–5; 172588–43–1; 176022–76–7; 196823–11–7; 287935–46–0; 288260–45–7; 303176–75–2; 954108–36–2).	.....	Surfactants, related adjuvants of surfactants.
* * * * * * *		

■ 4. In § 180.940, the table is amended by revising the following entry to the table in paragraph (a):

§ 180.940 Tolerance exemptions for active and inert ingredients for use in antimicrobial formulations (Food-contact surface sanitizing solutions).

(a) * * *

Pesticide chemical	CAS Reg. No	Limits
* * * * * * *		
α-Alkyl-ω-hydroxypoly (oxypropylene) and/or poly (oxyethylene) polymers where the alkyl chain contains a minimum of six carbons (CAS Reg. No 251553–55–6).	9002–92–0; 9004–95–9; 9004–98–2; 9005–00–9; 9035–85–2; 9038–29–3; 9038–43–1; 9040–05–5; 9043–30–5; 9087–53–0; 25190–05–0; 24938–91–8; 25231–21–4; 251553–55–6; 26183–52–8; 26468–86–0; 26636–39–5; 27252–75–1; 27306–79–2; 31726–34–8; 34398–01–1; 34398–05–5; 37251–67–5; 37311–00–5; 37311–01–6; 37311–02–7; 37311–04–9; 39587–22–9; 50861–66–0; 52232–09–4; 52292–17–8; 52609–19–5; 57679–21–7; 59112–62–8; 60828–78–6; 61702–78–1; 61723–78–2; 61725–89–1; 61791–13–7; 61791–20–6; 61791–28–4; 61804–34–0; 61827–42–7; 61827–84–7; 62648–50–4; 63303–01–5; 63658–45–7; 63793–60–2; 64366–70–7; 64415–24–3; 64415–25–4; 64425–86–1; 65104–72–5; 65150–81–4; 66455–14–9: 66455–15–0; 67254–71–1; 67763–08–0; 68002–96–0; 68002–97–1; 68131–39–5; 68131–40–8; 68154–96–1; 68154–97–2; 68154–98–3; 68155–01–1; 68213–23–0; 68213–24–1; 68238–81–3; 68238–82–4; 68409–58–5; 68409–59–6; 68439–30–5; 68439–45–2; 68439–46–3; 68439–48–5; 68439–49–6; 68439–50–9; 68439–51–0; 68439–53–2; 68439–54–3; 68458–88–8; 68526–94–3; 68526–95–4; 68551–12–2; 68551–13–3; 68551–14–4; 68603–20–3; 68603–25–8; 68920–66–1; 68920–69–4; 68937–66–6; 68951–67–7; 68954–94–9; 68987–81–5; 68991–48–0; 69011–36–5; 69013–18–9; 69013–19–0; 69227–20–9; 69227–21–0; 69227–22–1; 69364–63–2; 70750–27–5; 70879–83–3; 70955–07–6; 71011–10–4; 71060–57–6; 71243–46–4; 72066–65–0; 72108–90–8; 72484–69–6; 72854–13–8; 72905–87–4; 73018–31–2; 73049–34–0; 74432–13–6; 74499–34–6; 78330–19–5; 78330–20–8; 78330–21–9; 78330–23–1; 79771–03–2; 84133–50–6; 85422–93–1; 97043–91–9; 97953–22–5; 102782–43–4; 103331–86–8; 103657–84–7; 103657–85–8; 103818–93–5; 103819–03–0; 106232–83–1; 111905–54–5; 116810–31–2; 116810–32–3; 116810–33–4; 120313–48–6; 120944–68–5; 121617–09–2; 126646–02–4; 126950–62–7; 127036–24–2; 139626–71–4; 152231–44–2; 154518–36–2; 157627–86–6; 157627–88–8; 157707–41–0; 157707–43–2; 159653–49–3; 160875–66–1; 160901–20–2; 160901–09–7; 160901–19–9; 161025–21–4; 161025–22–5; 166736–08–9; 169107–21–5; 172588–43–1; 176022–76–7; 196823–11–7; 287935–46–0; 288260–45–7; 303176–75–2; 954108–36–2.	
* * * * * * *		

■ 5. In § 180.960, the table is amended by revising the following entry to read as follows:

§ 180.960 Polymers; exemptions from the requirement of a tolerance.

* * * * *

Polymer	CAS No.
*	*
α-Alkyl-ω-hydroxypoly (oxypropylene) and/or poly (oxyethylene) polymers where the alkyl chain contains a minimum of six carbons and a minimum number average molecular weight (in amu) 1,100.	9002–92–0; 9004–95–9; 9004–98–2; 9005–00–9; 9035–85–2; 9038–29–3; 9038–43–1; 9040–05–5; 9043–30–5; 9087–53–0; 25190–05–0; 24938–91–8; 25231–21–4; 251553–55–6; 26183–52–8; 26468–86–0; 26636–39–5; 27252–75–1; 27306–79–2; 31726–34–8; 34398–01–1; 34398–05–5; 37251–67–5; 37311–00–5; 37311–01–6; 37311–02–7; 37311–04–9; 39587–22–9; 50861–66–0; 52232–09–4; 52292–17–8; 52609–19–5; 57679–21–7; 59112–62–8; 60828–78–6; 61702–78–1; 61723–78–2; 61725–89–1; 61791–13–7; 61791–20–6; 61791–28–4; 61804–34–0; 61827–42–7; 61827–84–7; 62648–50–4; 63303–01–5; 63658–45–7; 63793–60–2; 64366–70–7; 64415–24–3; 64415–25–4; 64425–86–1; 65104–72–5; 65150–81–4; 66455–14–9: 66455–15–0; 67254–71–1; 67763–08–0; 68002–96–0; 68002–97–1; 68131–39–5; 68131–40–8; 68154–96–1; 68154–97–2; 68154–98–3; 68155–01–1; 68213–23–0; 68213–24–1; 68238–81–3; 68238–82–4; 68409–58–5; 68409–59–6; 68439–30–5; 68439–45–2; 68439–46–3; 68439–48–5; 68439–49–6; 68439–50–9; 68439–51–0; 68439–53–2; 68439–54–3; 68458–88–8; 68526–94–3; 68526–95–4; 68551–12–2; 68551–13–3; 68551–14–4; 68603–20–3; 68603–25–8; 68920–66–1; 68920–69–4; 68937–66–6; 68951–67–7; 68954–94–9; 68987–81–5; 68991–48–0; 69011–36–5; 69013–18–9; 69013–19–0; 69227–20–9; 69227–21–0; 69227–22–1; 69364–63–2; 70750–27–5; 70879–83–3; 70955–07–6; 71011–10–4; 71060–57–6; 71243–46–4; 72066–65–0; 72108–90–8; 72484–69–6; 72854–13–8; 72905–87–4; 73018–31–2; 73049–34–0; 74432–13–6; 74499–34–6; 78330–19–5; 78330–20–8; 78330–21–9; 78330–23–1; 79771–03–2; 84133–50–6; 85422–93–1; 97043–91–9; 97953–22–5; 102782–43–4; 103331–86–8; 103657–84–7; 103657–85–8; 103818–93–5; 103819–03–0; 106232–83–1; 111905–54–5; 116810–31–2; 116810–32–3; 116810–33–4; 120313–48–6; 120944–68–5; 121617–09–2; 126646–02–4; 126950–62–7; 127036–24–2; 139626–71–4; 152231–44–2; 154518–36–2; 157627–86–6; 157627–88–8; 157707–41–0; 157707–43–2; 159653–49–3; 160875–66–1; 160901–20–2; 160901–09–7; 160901–19–9; 161025–21–4; 161025–22–5; 166736–08–9; 169107–21–5; 172588–43–1; 176022–76–7; 196823–11–7; 287935–46–0; 288260–45–7; 303176–75–2; 954108–36–2.
*	*

[FR Doc. 2017–17622 Filed 9–6–17; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

44 CFR Part 64

[Docket ID FEMA–2017–0002; Internal Agency Docket No. FEMA–8495]

Suspension of Community Eligibility

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Final rule.

SUMMARY: This rule identifies communities where the sale of flood insurance has been authorized under the National Flood Insurance Program (NFIP) that are scheduled for suspension on the effective dates listed within this rule because of noncompliance with the floodplain management requirements of the program. If the Federal Emergency Management Agency (FEMA) receives documentation that the community has adopted the required floodplain management measures prior to the effective suspension date given in this rule, the suspension will not occur and a notice of this will be provided by publication in the **Federal Register** on a subsequent date. Also, information identifying the current participation status of a community can be obtained from FEMA's Community Status Book (CSB). The CSB is available at *https://www.fema.gov/national-flood-insurance-program-community-status-book.*

DATES: *Effective Dates:* The effective date of each community's scheduled suspension is the third date (''Susp.'') listed in the third column of the following tables.

FOR FURTHER INFORMATION CONTACT: If you want to determine whether a particular community was suspended on the suspension date or for further information, contact Patricia Suber, Federal Insurance and Mitigation Administration, Federal Emergency Management Agency, 400 C Street SW., Washington, DC 20472, (202) 646–4149.

SUPPLEMENTARY INFORMATION: The NFIP enables property owners to purchase Federal flood insurance that is not otherwise generally available from private insurers. In return, communities agree to adopt and administer local floodplain management measures aimed at protecting lives and new construction from future flooding. Section 1315 of the National Flood Insurance Act of 1968, as amended, 42 U.S.C. 4022, prohibits the sale of NFIP flood insurance unless an appropriate public body adopts adequate floodplain management measures with effective enforcement measures. The communities listed in this document no longer meet that statutory requirement for compliance with program regulations, 44 CFR part 59. Accordingly, the communities will be suspended on the effective date in the third column. As of that date, flood insurance will no longer be available in the community. We recognize that some of these communities may adopt and submit the required documentation of legally enforceable floodplain management measures after this rule is published but prior to the actual suspension date. These communities will not be suspended and will continue to be eligible for the sale of NFIP flood insurance. A notice withdrawing the suspension of such communities will be published in the **Federal Register**.

In addition, FEMA publishes a Flood Insurance Rate Map (FIRM) that identifies the Special Flood Hazard Areas (SFHAs) in these communities. The date of the FIRM, if one has been published, is indicated in the fourth column of the table. No direct Federal financial assistance (except assistance pursuant to the Robert T. Stafford Disaster Relief and Emergency Assistance Act not in connection with a flood) may be provided for construction or acquisition of buildings in identified SFHAs for communities not

participating in the NFIP and identified for more than a year on FEMA's initial FIRM for the community as having flood-prone areas (section 202(a) of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4106(a), as amended). This prohibition against certain types of Federal assistance becomes effective for the communities listed on the date shown in the last column. The Administrator finds that notice and public comment procedures under 5 U.S.C. 553(b), are impracticable and unnecessary because communities listed in this final rule have been adequately notified.

Each community receives 6-month, 90-day, and 30-day notification letters addressed to the Chief Executive Officer stating that the community will be suspended unless the required floodplain management measures are met prior to the effective suspension date. Since these notifications were made, this final rule may take effect within less than 30 days.

National Environmental Policy Act. FEMA has determined that the community suspension(s) included in this rule is a non-discretionary action and therefore the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*) does not apply.

Regulatory Flexibility Act. The Administrator has determined that this rule is exempt from the requirements of the Regulatory Flexibility Act because the National Flood Insurance Act of 1968, as amended, Section 1315, 42 U.S.C. 4022, prohibits flood insurance coverage unless an appropriate public body adopts adequate floodplain management measures with effective enforcement measures. The communities listed no longer comply with the statutory requirements, and after the effective date, flood insurance will no longer be available in the communities unless remedial action takes place.

Regulatory Classification. This final rule is not a significant regulatory action under the criteria of section 3(f) of Executive Order 12866 of September 30, 1993, Regulatory Planning and Review, 58 FR 51735.

Executive Order 13132, Federalism. This rule involves no policies that have federalism implications under Executive Order 13132.

Executive Order 12988, Civil Justice Reform. This rule meets the applicable standards of Executive Order 12988.

Paperwork Reduction Act. This rule does not involve any collection of information for purposes of the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.*

List of Subjects in 44 CFR Part 64

Flood insurance, Floodplains.

Accordingly, 44 CFR part 64 is amended as follows:

PART 64—[AMENDED]

■ 1. The authority citation for Part 64 continues to read as follows:

Authority: 42 U.S.C. 4001 *et seq.;* Reorganization Plan No. 3 of 1978, 3 CFR, 1978 Comp.; p. 329; E.O. 12127, 44 FR 19367, 3 CFR, 1979 Comp.; p. 376.

§ 64.6 [Amended]

■ 2. The tables published under the authority of § 64.6 are amended as follows:

State and location	Community No.	Effective date authorization/ cancellation of sale of flood insurance in community	Current effective map date	Date certain Federal assistance no longer available in SFHAs
Region VII				
Iowa:				
Arcadia, City of, Carroll County ...	190694	September 3, 1976, Emerg; June 10, 1980, Reg; September 15, 2017, Susp.	September 15, 2017 ..	September 15, 2017.
Dedham, City of, Carroll County	190043	July 7, 1975, Emerg; September 1, 1986, Reg; September 15, 2017, Susp.	.....do	Do.

-do- = Ditto.
Code for reading third column: Emerg.—Emergency; Reg.—Regular; Susp.—Suspension.

Dated: August 22, 2017.

Michael M. Grimm,

Assistant Administrator for Mitigation, Federal Insurance and Mitigation Administration, Department of Homeland Security, Federal Emergency Management Agency.

[FR Doc. 2017–18909 Filed 9–6–17; 8:45 am]

BILLING CODE 9110–12–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

44 CFR Part 64

[Docket ID FEMA–2017–0002; Internal Agency Docket No. FEMA–8497]

Suspension of Community Eligibility

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Final rule.

SUMMARY: This rule identifies communities where the sale of flood insurance has been authorized under the National Flood Insurance Program (NFIP) that are scheduled for suspension on the effective dates listed within this rule because of noncompliance with the floodplain management requirements of the program. If the Federal Emergency Management Agency (FEMA) receives documentation that the community has adopted the required floodplain management measures prior to the effective suspension date given in this rule, the suspension will not occur and a notice of this will be provided by publication in the **Federal Register** on a subsequent date. Also, information identifying the current participation status of a community can be obtained from FEMA's Community Status Book (CSB). The CSB is available at *https://www.fema.gov/national-flood-insurance-program-community-status-book.*

DATES: *Effective Dates:* The effective date of each community's scheduled suspension is the third date (''Susp.'') listed in the third column of the following tables.

FOR FURTHER INFORMATION CONTACT: If you want to determine whether a particular community was suspended on the suspension date or for further information, contact Patricia Suber, Federal Insurance and Mitigation Administration, Federal Emergency Management Agency, 400 C Street SW., Washington, DC 20472, (202) 646–4149.

SUPPLEMENTARY INFORMATION: The NFIP enables property owners to purchase Federal flood insurance that is not otherwise generally available from private insurers. In return, communities agree to adopt and administer local floodplain management measures aimed at protecting lives and new construction from future flooding. Section 1315 of the National Flood Insurance Act of 1968, as amended, 42 U.S.C. 4022, prohibits the sale of NFIP flood insurance unless an appropriate public body adopts adequate floodplain management measures with effective enforcement measures. The communities listed in this document no longer meet that statutory requirement for compliance with program regulations, 44 CFR part 59. Accordingly, the communities will be suspended on the effective date in the third column. As of that date, flood insurance will no longer be available in the community. We recognize that some of these communities may adopt and submit the required documentation of legally enforceable floodplain management measures after this rule is published but prior to the actual suspension date. These communities will not be suspended and will continue to be eligible for the sale of NFIP flood insurance. A notice withdrawing the suspension of such communities will be published in the **Federal Register**.

In addition, FEMA publishes a Flood Insurance Rate Map (FIRM) that identifies the Special Flood Hazard Areas (SFHAs) in these communities. The date of the FIRM, if one has been published, is indicated in the fourth column of the table. No direct Federal financial assistance (except assistance pursuant to the Robert T. Stafford Disaster Relief and Emergency Assistance Act not in connection with a flood) may be provided for construction or acquisition of buildings in identified SFHAs for communities not participating in the NFIP and identified for more than a year on FEMA's initial FIRM for the community as having flood-prone areas (section 202(a) of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4106(a), as amended). This prohibition against certain types of Federal assistance becomes effective for the communities listed on the date shown in the last column. The Administrator finds that notice and public comment procedures under 5 U.S.C. 553(b), are impracticable and unnecessary because communities listed in this final rule have been adequately notified.

Each community receives 6-month, 90-day, and 30-day notification letters addressed to the Chief Executive Officer stating that the community will be suspended unless the required floodplain management measures are met prior to the effective suspension date. Since these notifications were made, this final rule may take effect within less than 30 days.

National Environmental Policy Act. FEMA has determined that the community suspension(s) included in this rule is a non-discretionary action and therefore the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*) does not apply.

Regulatory Flexibility Act. The Administrator has determined that this rule is exempt from the requirements of the Regulatory Flexibility Act because the National Flood Insurance Act of 1968, as amended, Section 1315, 42 U.S.C. 4022, prohibits flood insurance coverage unless an appropriate public body adopts adequate floodplain management measures with effective enforcement measures. The communities listed no longer comply with the statutory requirements, and after the effective date, flood insurance will no longer be available in the communities unless remedial action takes place.

Regulatory Classification. This final rule is not a significant regulatory action under the criteria of section 3(f) of Executive Order 12866 of September 30, 1993, Regulatory Planning and Review, 58 FR 51735.

Executive Order 13132, Federalism. This rule involves no policies that have federalism implications under Executive Order 13132.

Executive Order 12988, Civil Justice Reform. This rule meets the applicable standards of Executive Order 12988.

Paperwork Reduction Act. This rule does not involve any collection of information for purposes of the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.*

List of Subjects in 44 CFR Part 64

Flood insurance, Floodplains.

Accordingly, 44 CFR part 64 is amended as follows:

PART 64—[AMENDED]

■ 1. The authority citation for part 64 continues to read as follows:

Authority: 42 U.S.C. 4001 *et seq.;* Reorganization Plan No. 3 of 1978, 3 CFR, 1978 Comp.; p. 329; E.O. 12127, 44 FR 19367, 3 CFR, 1979 Comp.; p. 376.

§ 64.6 [Amended]

■ 2. The tables published under the authority of § 64.6 are amended as follows:

State and location	Community No.	Effective date authorization/ cancellation of sale of flood insurance in community	Current effective map date	Date certain Federal assistance no longer available in SFHAs
Region III				
Pennsylvania:				
Avondale, Borough of, Chester County.	421473	August 29, 1975, Emerg; November 4, 1987, Reg; September 29, 2017, Susp.	September 29, 2017 ..	September 29, 2017.
Charlestown, Township of, Chester County.	421475	November 24, 1975, Emerg; December 4, 1984, Reg; September 29, 2017, Susp.	.....*do	Do.
Coatesville, City of, Chester County.	420274	December 26, 1974, Emerg; May 17, 1982, Reg; September 29, 2017, Susp.	.....do	Do.
Downingtown, Borough of, Chester County.	420275	December 3, 1971, Emerg; April 15, 1977, Reg; September 29, 2017, Susp.	.....do	Do.

State and location	Community No.	Effective date authorization/ cancellation of sale of flood insurance in community	Current effective map date	Date certain Federal assistance no longer available in SFHAs
East Brandywine, Township of, Chester County.	421476	November 21, 1975, Emerg; February 1, 1984, Reg; September 29, 2017, Susp.	.....do	Do.
East Fallowfield, Township of, Chester County.	421479	November 3, 1975, Emerg; June 1, 1983, Reg; September 29, 2017, Susp.	.....do	Do.
East Goshen, Township of, Chester County.	420277	January 21, 1972, Emerg; July 5, 1977, Reg; September 29, 2017, Susp.	.....do	Do.
East Marlborough, Township of, Chester County.	421480	March 28, 1975, Emerg; July 16, 1981, Reg; September 29, 2017, Susp.	.....do	Do.
East Nantmeal, Township of, Chester County.	421481	April 14, 1976, Emerg; February 1, 1984, Reg; September 29, 2017, Susp.	.....do	Do.
East Nottingham, Township of, Chester County.	421482	February 9, 1976, Emerg; September 4, 1985, Reg; September 29, 2017, Susp.	.....do	Do.
East Whiteland, Township of, Chester County.	420279	June 16, 1972, Emerg; June 1, 1989, Reg; September 29, 2017, Susp.	.....do	Do.
Elk, Township of, Chester County	422286	January 14, 1975, Emerg; July 30, 1982, Reg; September 29, 2017, Susp.	.....do	Do.
Franklin, Township of, Chester County.	422288	July 6, 1983, Emerg; March 1, 1986, Reg; September 29, 2017, Susp.	.....do	Do.
Honey Brook, Township of, Chester County.	422290	November 10, 1975, Emerg; August 1, 1984, Reg; September 29, 2017, Susp.	.....do	Do.
Kennett Square, Borough of, Chester County.	420280	April 21, 1975, Emerg; July 16, 1981, Reg; September 29, 2017, Susp.	.....do	Do.
London Britain, Township of, Chester County.	422273	February 5, 1975, Emerg; December 31, 1982, Reg; September 29, 2017, Susp.	.....do	Do.
London Grove, Township of, Chester County.	422274	October 17, 1974, Emerg; February 11, 1983, Reg; September 29, 2017, Susp.	.....do	Do.
Londonderry, Township of, Chester County.	421484	December 12, 1974, Emerg; September 24, 1984, Reg; September 29, 2017, Susp.	.....do	Do.
Modena, Borough of, Chester County.	420282	October 10, 1974, Emerg; November 19, 1987, Reg; September 29, 2017, Susp.	.....do	Do.
New London, Township of, Chester County.	422276	May 13, 1975, Emerg; November 12, 1982, Reg; September 29, 2017, Susp.	.....do	Do.
North Coventry, Township of, Chester County.	420283	January 26, 1973, Emerg; August 15, 1978, Reg; September 29, 2017, Susp.	.....do	Do.
Oxford, Borough of, Chester County.	420284	June 17, 1975, Emerg; September 17, 1982, Reg; September 29, 2017, Susp.	.....do	Do.
Parkesburg, Borough of, Chester County.	422277	June 11, 1975, Emerg; June 1, 1983, Reg; September 29, 2017, Susp.	.....do	Do.
Penn, Township of, Chester County.	421487	October 15, 1975, Emerg; December 17, 1982, Reg; September 29, 2017, Susp.	.....do	Do.
Pennsbury, Township of, Chester County.	420285	September 29, 1972, Emerg; December 28, 1976, Reg; September 29, 2017, Susp.	.....do	Do.
Pocopson, Township of, Chester County.	420286	January 21, 1972, Emerg; April 15, 1977, Reg; September 29, 2017, Susp.	.....do	Do.
South Coventry, Township of, Chester County.	421490	April 29, 1975, Emerg; July 18, 1983, Reg; September 29, 2017, Susp.	.....do	Do.
Spring City, Borough of, Chester County.	420289	June 4, 1975, Emerg; March 16, 1981, Reg; September 29, 2017, Susp.	.....do	Do.
Tredyffrin, Township of, Chester County.	420291	September 17, 1971, Emerg; April 17, 1978, Reg; September 29, 2017, Susp.	.....do	Do.

State and location	Community No.	Effective date authorization/ cancellation of sale of flood insurance in community	Current effective map date	Date certain Federal assistance no longer available in SFHAs
Upper Oxford, Township of, Chester County.	422278	August 6, 1975, Emerg; February 25, 1983, Reg; September 29, 2017, Susp.	.....do	Do.
Upper Uwchlan, Township of, Chester County.	421491	March 10, 1976, Emerg; August 19, 1985, Reg; September 29, 2017, Susp.	.....do	Do.
Uwchlan, Township of, Chester County.	421492	October 11, 1974, Emerg; September 30, 1980, Reg; September 29, 2017, Susp.	.....do	Do.
Valley, Township of, Chester County.	421206	May 23, 1974, Emerg; August 1, 1984, Reg; September 29, 2017, Susp.	.....do	Do.
Wallace, Township of, Chester County.	421493	February 11, 1976, Emerg; March 11, 1983, Reg; September 29, 2017, Susp.	.....do	Do.
Warwick, Township of, Chester County.	421494	November 28, 1975, Emerg; March 1, 1984, Reg; September 29, 2017, Susp.	.....do	Do.
West Bradford, Township of, Chester County.	421495	February 10, 1975, Emerg; July 16, 1981, Reg; September 29, 2017, Susp.	.....do	Do.
West Brandywine, Township of, Chester County.	421496	August 6, 1975, Emerg; September 28, 1979, Reg; September 29, 2017, Susp.	.....do	Do.
West Caln, Township of, Chester County.	421497	May 19, 1976, Emerg; January 17, 1985, Reg; September 29, 2017, Susp.	.....do	Do.
West Marlborough, Township of, Chester County.	422279	May 20, 1975, Emerg; January 18, 1984, Reg; September 29, 2017, Susp.	.....do	Do.
West Pikeland, Township of, Chester County.	421151	April 10, 1974, Emerg; June 1, 1983, Reg; September 29, 2017, Susp.	.....do	Do.
West Sadsbury, Township of, Chester County.	422281	March 23, 1976, Emerg; August 5, 1985, Reg; September 29, 2017, Susp.	.....do	Do.
West Vincent, Township of, Chester County.	421499	August 11, 1975, Emerg; November 19, 1987, Reg; September 29, 2017, Susp.	.....do	Do.
West Whiteland, Township of, Chester County.	420295	November 5, 1971, Emerg; May 2, 1977, Reg; September 29, 2017, Susp.	.....do	Do.
Westtown, Township of, Chester County.	420294	November 26, 1971, Emerg; June 1, 1977, Reg; September 29, 2017, Susp.	.....do	Do.
Willistown, Township of, Chester County.	422282	October 17, 1974, Emerg; October 15, 1981, Reg; September 29, 2017, Susp.	.....do	Do.
Region IV				
Florida:				
Daytona Beach, City of, Volusia County.	125099	September 11, 1970, Emerg; September 7, 1973, Reg; September 29, 2017, Susp.	.....do	Do.
DeLand, City of, Volusia County	120307	February 19, 1975, Emerg; December 22, 1980, Reg; September 29, 2017, Susp.	.....do	Do.
New Smyrna Beach, City of, Volusia County.	125132	May 14, 1971, Emerg; December 7, 1973, Reg; September 29, 2017, Susp.	.....do	Do.
Oak Hill, City of, Volusia County	120624	N/A, Emerg; February 21, 1994, Reg; September 29, 2017, Susp.	.....do	Do.
Orange City, City of, Volusia County..	120633	June 1, 1990, Emerg; September 2, 1994, Reg; September 29, 2017, Susp.	.....do	Do.
Ormond Beach, City of, Volusia County.	125136	November 20, 1970, Emerg; September 7, 1973, Reg; September 29, 2017, Susp.	.....do	Do.
Ponce Inlet, Town of, Volusia County.	120312	May 28, 1974, Emerg; October 8, 1976, Reg; September 29, 2017, Susp.	.....do	Do.
South Daytona, City of, Volusia County.	120314	June 18, 1971, Emerg; October 3, 1976, Reg; September 29, 2017, Susp.	.....do	Do.

State and location	Community No.	Effective date authorization/ cancellation of sale of flood insurance in community	Current effective map date	Date certain Federal assistance no longer available in SFHAs
Kentucky:				
Henderson, City of, Henderson County.	210109	August 7, 1973, Emerg; June 15, 1978, Reg; September 29, 2017, Susp.	.....do	Do.
Henderson County, Unincorporated Areas.	210286	N/A, Emerg; April 10, 1991, Reg; September 29, 2017, Susp.	.....do	Do.
Region V				
Minnesota:				
Hallock, City of, Kittson County ...	270226	July 3, 1974, Emerg; January 2, 1980, Reg; September 29, 2017, Susp.	.....do	Do.
Kennedy, City of, Kittson County	270686	March 26, 1976, Emerg; August 5, 1986, Reg; September 29, 2017, Susp.	.....do	Do.
Kittson County, Unincorporated Areas.	270224	February 11, 1974, Emerg; February 4, 1981, Reg; September 29, 2017, Susp.	.....do	Do.
Lancaster, City of, Kittson County	270231	June 19, 1975, Emerg; June 22, 1984, Reg; September 29, 2017, Susp.	.....do	Do.
Saint Vincent, City of, Kittson County.	270232	December 17, 1974, Emerg; September 2, 1982, Reg; September 29, 2017, Susp.	.....do	Do.
Wisconsin:				
Black River Falls, City of, Jackson County.	550186	April 7, 1975, Emerg; February 4, 1981, Reg; September 29, 2017, Susp.	.....do	Do.
Jackson County, Unincorporated Areas.	550583	September 30, 1975, Emerg; February 4, 1981, Reg; September 29, 2017, Susp.	.....do	Do.
Region IX				
Hawaii:				
Hawaii County, Unincorporated Areas.	155166	June 5, 1970, Emerg; May 3, 1982, Reg; September 29, 2017, Susp.	.....do	Do.

-do- = Ditto.
Code for reading third column: Emerg.—Emergency; Reg.—Regular; Susp—Suspension.

Dated: August 29, 2017.

Michael M. Grimm,

Assistant Administrator for Mitigation, Federal Insurance and Mitigation Administration, Department of Homeland Security, Federal Emergency Management Agency.

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DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

[Docket No. FWS–R2–ES–2016–0099 and FWS–R2–ES–2016–0100; 4500030113]

RIN 1018–BA74

Endangered and Threatened Wildlife and Plants; Endangered Species Status for Guadalupe Fescue; Designation of Critical Habitat for Guadalupe Fescue

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service), determine endangered species status and designate critical habitat under the Endangered Species Act of 1973, as amended (Act), for *Festuca ligulata* (Guadalupe fescue), a plant species from the Chihuahuan Desert of west Texas and Mexico. The effect of this regulation will be to add this species to the List of Endangered and Threatened Plants and designate approximately 7,815 acres (3,163 hectares) of critical habitat in Brewster County, Texas located entirely within Big Bend National Park.

DATES: This rule becomes effective October 10, 2017.

ADDRESSES: This final rule is available on the internet at *http://www.regulations.gov* under Docket No. FWS–R2–ES–2016–0099 and FWS–R2–ES–2016–0100. Comments and materials we received, as well as supporting documentation we used in preparing this rule, are available for public inspection at *http://www.regulations.gov* in Docket No. FWS–R2–ES–2016–0099 and FWS–R2–ES–2016–0100. Comments, materials, and documentation that we considered in this rulemaking will be available by appointment, during normal business hours at: U.S. Fish and Wildlife Service, Austin Ecological Services Field Office, 10711 Burnet Rd., Suite 200, Austin, TX 78758; telephone 512–490–0057; or facsimile 512–490–0974.

FOR FURTHER INFORMATION CONTACT: Adam Zerrenner, Field Supervisor, U.S. Fish and Wildlife Service, Austin Ecological Services Field Office, 10711 Burnet Rd., Suite 200, Austin, TX 78758; telephone 512–490–0057; or facsimile 512–490–0974. Persons who use a telecommunications device for the deaf (TDD) may call the Federal Relay Service at 800–877–8339.

SUPPLEMENTARY INFORMATION:

Previous Federal Action

On September 9, 2016, we, the U.S. Fish and Wildlife Service (Service), published in the **Federal Register** a proposed rule to list *Festuca ligulata* (Guadalupe fescue), a plant species from the Chihuahuan Desert of west Texas and Mexico, as an endangered species under the Endangered Species Act of

1973, as amended (Act) (16 U.S.C. 1531 *et seq.*). The proposed listing rule contains a detailed description of previous Federal actions concerning this species (81 FR 62450).

On September 9, 2016, we also published a proposed rule to designate critical habitat for Guadalupe fescue on approximately 7,815 acres (3,163 hectares) in Brewster County, Texas, located entirely in Big Bend National Park (81 FR 62455) and requested public comments. The comment period closed on November 8, 2016. We also contacted appropriate Federal, State, and local agencies; scientific organizations; and other interested parties and invited them to comment on the proposed rule and draft economic analysis during the comment period. We opened another 30-day comment period on June 13, 2017.

The effect of this rulemaking action is to add Guadalupe fescue to the List of Endangered and Threatened Plants in title 50 of the Code of Federal Regulations at 50 CFR 17.12(h) and thereby extend the Act's protections to the species and finalize the designation of approximately 7,815 acres (3,163 hectares) of critical habitat in Big Bend National Park.

Summary of Comments and Recommendations

We received a total of six public comments that did not include any new information not already considered in our analysis. During either comment period, we received no comment letters directly addressing the proposed critical habitat designation or any requests for a public hearing.

Peer Review

In accordance with our peer review policy published on July 1, 1994 (59 FR 34270), we solicited expert opinions from four knowledgeable individuals with scientific expertise that included familiarity with the species, the geographic region in which the species occurs, and conservation biology principles. We received responses from two of the peer reviewers who provided comments on the proposed listing rule and the Species Status Assessment. However, they did not provide comments on the proposed designation of critical habitat for Guadalupe fescue.

Summary of Changes From Proposed Rules

We made no substantive changes from the proposed rules of September 9, 2016 to list or designate critical habitat for Guadalupe fescue in this final rule.

Background

Staff of the Austin Ecological Services Field Office developed the Species Status Assessment (SSA) Report for Guadalupe fescue, which is an evaluation of the best available scientific and commercial data on the status of the species, including the past, present, and future threats to this species and the effect of conservation measures. The SSA Report and other materials related to this final rule are available online at *http://www.regulations.gov* in Docket No. FWS–R2–ES–2016–0099 and FWS–R2–ES–2016–0100.

The SSA Report (Service 2016) is based on a thorough review of the natural history, habitats, ecology, populations, and range of Guadalupe fescue. The SSA Report analyzes individual, population, and species requirements; factors affecting the species' survival; and current conditions to assess the species' current and future viability in terms of resiliency, redundancy, and representation. We define viability as the ability of a species to maintain populations over a defined period of time.

Resiliency refers to the population size necessary to endure stochastic environmental variation (Shaffer and Stein 2000, pp. 308–310). Resilient populations are better able to recover from losses caused by random variation, such as fluctuations in recruitment (demographic stochasticity), variations in rainfall (environmental stochasticity), or changes in the frequency of wildfires.

Redundancy refers to the number and geographic distribution of populations or sites necessary to endure catastrophic events (Shaffer and Stein 2000, pp. 308–310). As defined here, catastrophic events are rare occurrences, usually of finite duration, that cause severe impacts to one or more populations. Examples of catastrophic events include tropical storms, floods, prolonged drought, and unusually intense wildfire. Species that have multiple resilient populations distributed over a larger landscape are more likely to survive catastrophic events, since not all populations would be affected.

Representation refers to the genetic diversity, both within and among populations, necessary to conserve long-term adaptive capability (Shaffer and Stein 2000, pp. 307–308). Species with greater genetic diversity are more able to adapt to environmental changes and to colonize new sites.

Summary of Biological Status and Threats

Guadalupe fescue is a short-lived perennial grass species found only in a few high mountains of the Chihuahuan Desert, west of the Pecos River in Texas and in the State of Coahuila, Mexico. These ''sky island'' habitats are conifer-oak woodlands above 1,800 meters (m) (5,905 feet (ft)) elevation. Historically, the species has been reported in only six sites. It was first collected in 1931, in the Guadalupe Mountains, Culberson County, Texas, and in the Chisos Mountains, Brewster County, Texas; these sites are now within Guadalupe Mountains National Park and Big Bend National Park, respectively. Guadalupe fescue was documented near Fraile, southern Coahuila, in 1941; in the Sierra la Madera, central Coahuila, in 1977; and at two sites in the Maderas del Carmen Mountains of northern Coahuila in 1973 and 2003. The last three sites are now within protected natural areas (''areas naturales protegidas'' (ANP)) designated by the Mexican Federal Government.

In the United States, populations of Guadalupe fescue have experienced significant declines. Guadalupe fescue was last observed in the Guadalupe Mountains in 1952; this population is presumed extirpated. Researchers from the Texas Parks and Wildlife Department and Big Bend National Park have quantitatively monitored plots within the Chisos Mountains population over a 24-year period. Our analysis of these data indicates that the population within the plots (about 25 to 50 percent of the total population) has decreased significantly over time, from a high of 125 and 127 individuals in 1993 and 1994, to a low of 47 individuals in 2013 and 2014; by 2016 the monitored population had increased slightly to 56 individuals. Little information is available for the known populations in Mexico. Valdes-Reyna (2009, pp. 13, 15) confirmed that one population in the Maderas del Carmen Mountains is extant. This population had several hundred individuals in 2003 (Big Bend National Park and Service 2008), and is protected within ANP Maderas del Carmen. The status of the other three Coahuilan populations remains unknown.

To estimate the amount and distribution of potential Guadalupe fescue habitat, we mapped conifer-oak forests in the Chihuahuan Desert at elevations greater than 1,800 m. Because larger habitat areas may be more suitable for viability, we restricted this model to areas greater than 200 hectares (ha) (494 acres (ac)). This model reveals that northern Mexico has 283 areas of potential habitat totaling 537,998 ha (over 1.3 million ac), compared to 20 such areas totaling 27,881 ha (68,894 ac) in Texas. Thus, about 95 percent of the

potential habitat for the species is in Mexico. However, we do not have information confirming that any of these areas actually contain Guadalupe fescue.

Monitoring suggests that the Chisos Mountains population has decreased in size; however, the data indicate that survival rates within this monitored population have increased. These inverse trends may be explained by a recruitment rate (establishment of new individuals) that is too low to sustain the population. We do not know why the recruitment rate at the Chisos population is low. We have no information about the species' genetic viability, within-population and within-species genetic differentiation, chromosome number, or breeding system. However, because grasses are wind-pollinated, small and widely scattered populations produce few if any seeds from out-crossing (pollination by unrelated individuals). Many perennial grasses, including some *Festuca* species, are obligate out-crossers. If Guadalupe fescue is an obligate out-crosser, the sparse Chisos population would produce few seeds; if it is not an obligate out-crosser, it is probably highly inbred and may suffer from inbreeding depression. Although the minimum viable population (MVP) size has not yet been calculated for Guadalupe fescue, we can estimate its MVP by comparison to species with similar life histories (*i.e.,* surrogates) for which MVPs have been calculated, using the guideline adapted from Pavlik (1996, p. 137). Through this comparison, we estimate that populations of Guadalupe fescue should have at least 500 to 1,000 individuals for long-term population viability (Service 2016, pp. 17–18).

One factor potentially negatively affecting the existing population in the Chisos Mountains is the loss of regular wildfires. Periodic wildfire and leaf litter reduction may be necessary for long-term survival of Guadalupe fescue populations, although this theory has not been investigated. Historically, wildfires occurred in the vicinity of the Chisos population at least 10 times between 1770 and 1940 (Moir and Meents 1981, p. 7; Moir 1982, pp. 90–98; Poole 1989, p. 8; Camp *et al.* 2006, pp. 3–6, 14–23, 59–61). These relatively frequent, low-intensity fires would have reduced accumulated fuels in the understory, thereby preventing high-intensity crown fires. However, the last major fire there was more than 70 years ago, due to fire suppression within the National Park. The long absence of fire and the resulting accumulation of fuels also increase the risk of more intense wildfire, which could result in the loss of the remaining Guadalupe fescue population in the United States.

Other factors that may affect the continued survival of Guadalupe fescue include the genetic and demographic consequences of small population sizes and isolation of its known populations; livestock grazing; erosion or debris flow caused by trail runoff; competition from invasive species such as *Marrubium vulgare* (Horehound) and *Bothriochloa ischaemum* (King Ranch bluestem); effects of climate change, such as higher temperatures and changes in the amount and seasonal pattern of rainfall; and fungal infection of seeds. Big Bend National Park, the site of the only known population in the United States, has minimized the potential threat of trampling from humans and pack animals by restricting visitors and trail maintenance crews to established trails and through visitor outreach.

The Service, Big Bend National Park, and Guadalupe Mountains National Park established candidate conservation agreements for the Guadalupe fescue in 1998 and 2008. The objectives of these 10-year agreements include monitoring and surveys, seed and live plant banking, fire and invasive species management, trail management, staff and visitor education, establishment of an advisory team of species experts, and cooperation with Mexican agencies and researchers to conserve the known populations of Guadalupe fescue and search for new ones. Research objectives include investigations of fire ecology, habitat management, genetic structure, reproductive biology, and reintroduction. Upon listing the species, Big Bend National Park has committed to meeting the same conservation objectives and actions (Sirotnak 2016, pers. comm.).

Based on the best available information, we know of only two extant populations of Guadalupe fescue. The Chisos Mountains population is far smaller than our estimated MVP level, and despite protection, appropriate management, and periodic monitoring by the National Park Service, it declined between 1993 and 2016. The other extant population, at ANP Maderas del Carmen in northern Coahuila, Mexico, may have exceeded our estimated MVP level as recently as 2003, and the site is managed for natural resources conservation. Unfortunately, we possess very little information about the current status of the species at Maderas del Carmen and throughout Mexico. Our analysis revealed that a large amount of potential habitat exists in northern Mexico. Thus, it is possible that other undiscovered populations of Guadalupe fescue exist in northern Mexico, and that the overall status of the species is more secure than we now know. Nonetheless, the Service has to make a determination based on the best available scientific data, which currently confirms only one extant population in Mexico.

Summary of Changes From the Proposed Listing Rule

We made no substantive changes from the proposed rule of September 9, 2016 (81 FR 62450), to this final rule.

Summary of Comments and Recommendations

In the proposed rule, we requested that all interested parties submit written comments on the proposal by November 8, 2016. We also contacted the National Park Service (Big Bend National Park), Texas Parks and Wildlife Department, the Texas Comptroller's Office, the *Secretaría de Medio Ambiente y Recursos Naturales* (SEMARNAT, a Mexican federal agency), PRONATURA Sur (a Mexican non-governmental non-profit conservation organization), scientific experts and organizations, and other interested parties and invited them to comment on the proposal. We opened another 30-day public comment period June 13, 2017. Newspaper notices inviting general public comment were published in the Alpine Avalanche. We received no comments from State or Federal agencies, no substantive public comments, and no requests for a public hearing.

Peer Reviewer Comments

In accordance with our peer review policy published on July 1, 1994 (59 FR 34270), we solicited expert opinion from four knowledgeable individuals with scientific expertise that included familiarity with Guadalupe fescue and its habitat, biological needs, and threats. We received responses from two of the peer reviewers.

We reviewed the comments received from the peer reviewers for substantive issues and new information regarding the listing of Guadalupe fescue. The peer reviewers generally concurred with our conclusions and provided additional information, clarifications, and suggestions to improve the final rule. Peer reviewer comments are addressed and incorporated into the final rule as appropriate.

Determination

Standard for Review

Section 4 of the Act (16 U.S.C. 1533), and its implementing regulations at 50 CFR part 424, set forth the procedures for adding species to the Federal Lists

of Endangered and Threatened Wildlife and Plants. Under section 4(a)(1) of the Act, we may list a species based on (A) The present or threatened destruction, modification, or curtailment of its habitat or range; (B) Overutilization for commercial, recreational, scientific, or educational purposes; (C) Disease or predation; (D) The inadequacy of existing regulatory mechanisms; or (E) Other natural or manmade factors affecting its continued existence. Listing actions may be warranted based on any of the above threat factors, singly or in combination.

The fundamental question before the Service is whether the species meets the definition of ''endangered species'' or ''threatened species'' under the Act. To make this determination, we evaluated the projections of extinction risk, described in terms of the condition of current and future populations and their distribution (taking into account the risk factors and their effects on those populations). For any species, as population condition declines and distribution shrinks, the species' extinction risk increases and overall viability declines.

The Act defines an endangered species as any species that is ''in danger of extinction throughout all or a significant portion of its range'' and a threatened species as any species ''which is likely to become an endangered species within the foreseeable future throughout all or a significant portion of its range.'' The phrase ''significant portion of its range'' (SPR) is not defined by the Act, and the court in *Center for Biological Diversity* v. *Jewel* held that aspects of the Service's ''Policy on Interpretation of the Phrase 'Significant Portion of Its Range' in the ESA's Definitions of 'Endangered Species' and 'Threatened Species' '' (SPR Policy) were not valid No. 14–cv–02506–RM (D. Ariz. Mar. 29, 2017) (Pygmy-Owl Decision). Although the court's order in that case has not yet gone into effect, if the court denies the pending motion for reconsideration, the SPR Policy would become vacated. Therefore, we have examined the plain language of the Act and court decisions addressing the Service's application of the SPR phrase in various listing decisions, and for purposes of this rulemaking we are applying the following interpretation for the phrase ''significant portion of its range'' and its context in determining whether or not a species is an endangered species or a threatened species. This interpretation is consistent with the SPR Policy and the Pygmy-Owl Decision, and the SPR Policy provides a detailed explanation of the bases and support for this interpretation. We also set out below additional explanation for the interpretation we are applying for this rulemaking, including explaining any aspects of this interpretation that could be perceived as inconsistent with the SPR Policy or the Pygmy-Owl Decision.

As described in the SPR Policy, two courts have found that, once the Service determines that a ''species''—which can include a species, subspecies, or DPS under ESA Section 3(16)—meets the definition of ''endangered species'' or ''threatened species,'' the species must be listed in its entirety and the Act's protections applied consistently to all members of that species (subject to modification of protections through special rules under sections 4(d) and 10(j) of the Act). See Defenders of Wildlife v. Salazar, 729 F. Supp. 2d 1207, 1222 (D. Mont. 2010) (delisting of the Northern Rocky Mountains DPS of gray wolf; appeal dismissed as moot because of public law vacating the listing, 2012 U.S. App. LEXIS 26769 (9th Cir. Nov. 7, 2012)); WildEarth Guardians v. Salazar, No. 09–00574–PHX–FJM, 2010 U.S. Dist. LEXIS 105253, 15–16 (D. Ariz. Sept. 30, 2010) (Gunnison's prairie dog) The issue has not been addressed by a Federal Court of Appeals.

For the purposes of this rule, we interpret the phrase ''significant portion of its range'' in the Act's definitions of ''endangered species'' and ''threatened species'' to provide an independent basis for listing a species in its entirety; thus there are two situations (or factual bases) under which a species would qualify for listing: A species may be in danger of extinction or likely to become so in the foreseeable future throughout all of its range; or a species may be in danger of extinction or likely to become so throughout a significant portion of its range. If a species is in danger of extinction throughout an SPR, it, the species, is an ''endangered species.'' The same analysis applies to ''threatened species.'' Therefore, consistent with the district court case law, the consequence of finding that a species is in danger of extinction or likely to become so throughout a significant portion of its range is that the entire species will be listed as an endangered species or threatened species, respectively, and the Act's protections will be applied to all individuals of the species wherever found.

In implementing these independent bases for listing a species, we list any species in its entirety either because it is in danger of extinction now or likely to become so in the foreseeable future throughout all of its range or because it is in danger of extinction or likely to become so in the foreseeable future throughout a significant portion of its range. With regard to the text of the Act, we note that Congress placed the ''all'' language before the SPR phrase in the definitions of ''endangered species'' and ''threatened species.'' This suggests that Congress intended that an analysis based on consideration of the entire range should receive primary focus. Thus, the first step in our assessment of the status of a species is to determine its status throughout all of its range. Depending on the status throughout all of its range, we will subsequently examine whether it is necessary to determine its status throughout a significant portion of its range.

Guadalupe Fescue Determination of Status Throughout All of Its Range

We documented in our SSA Report (Service 2016, entire) that only two extant populations of Guadalupe fescue are currently known. The only extant population in the United States, in the Chisos Mountains at Big Bend National Park, has declined in abundance since 1993, despite the conservation efforts outlined in the candidate conservation agreement. Only 56 individuals were observed there in 2016, which is far less than an estimated MVP size of 500 to 1,000 individuals based on species with similar life histories. The other extant population, in the ANP Maderas del Carmen in Coahuila, had several hundred individuals in 2003, and was confirmed extant in 2009 with no population estimate. Three other historically known populations in remote areas of Coahuila, Mexico, have not been observed in at least 39 years, and their statuses remain unknown.

We find that several factors reduce the viability of Guadalupe fescue, including: Changes in the wildfire cycle and vegetation structure of its habitats, trampling from humans and pack animals, erosion or debris flow caused by trail runoff, and competition from invasive species such as *Marrubium vulgare* (Horehound) and *Bothriochloa ischaemum* (King Ranch bluestem) (Factor A); grazing by livestock and feral animals of Guadalupe fescue plants (Factor C); and the genetic and demographic consequences of small population sizes, isolation of its known populations, and potential impacts of climate changes, such as higher temperatures and changes in the amount and seasonal pattern of rainfall (Factor E). Although trampling, trail runoff, invasive species, and grazing are likely to be ameliorated by ongoing and future conservation efforts on Federal lands in the United States, the effects of small

population size, geographic isolation, and climate change are all rangewide threats and expected to continue into the foreseeable future. Limited information is available regarding the known populations of Guadalupe fescue in Mexico; however, most of the above factors are likely to be widespread and ongoing threats throughout the potential habitats in Mexico (Service 2016).

There are only two known extant populations of Guadalupe fescue, one each in Texas and in Coahuila, Mexico. We have no recent observations of three additional populations reported from Mexico, and their statuses are unknown. A second population reported from the United States has not been seen in more than 60 years, despite extensive surveys, and is presumed extirpated. Based on annual monitoring conducted through 2016, the Chisos Mountains population in the United States is estimated to have in the range of 100 and 200 individuals, well below the estimated MVP of 500 to 1,000 individuals, and the monitored population has declined from 127 individuals in 1993 to 47 individuals in 2014; in 2016 the monitored population had increased slightly to 56 individuals (Service 2016, Appendix B). Therefore, the Chisos Mountains population is considered to have low resiliency. The Maderas del Carmen population in Mexico may have held the estimated MVP as recently as 2003, but the current population status is unknown, and thus the population is considered to have limited resilience (Service 2016). With only two known populations, both with limited resiliency, the species has extremely low redundancy and representation. However, if there are additional extant populations in Mexico, we would expect the redundancy and representation of the species would be greater. Based on the best available information, therefore, the species' overall risk of extinction is such that we find it is in danger of extinction throughout its range.

Determination of Status Throughout a Significant Portion of Its Range

Consistent with our interpretation that there are two independent bases for listing species as described above, after examining the species' status throughout all of its range, we now examine whether it is necessary to determine whether it is an ''endangered species'' or ''threatened species'' throughout a significant portion of its range. We must give operational effect to both the ''throughout all'' of its range language and the SPR phrase in the definitions of ''endangered species'' and ''threatened species.'' The Act, however, does not specify the relationship between the two bases for listing. As discussed above, to give operational effect to the ''throughout all'' language and that it is referenced first in the definition, we first consider species' status throughout the entire range.

In order to give operational effect to the SPR language, the Service should undertake an SPR analysis if the species is neither in danger of extinction nor likely to become so in the foreseeable future throughout all of its range, to determine if the species should nonetheless be listed because of its status in an SPR. However, we have already concluded that this species is in danger of extinction throughout all of its range. We reach this conclusion when the species is experiencing high-magnitude threats across its range or threats are so high in particular areas that they severely affect the species across its range. Therefore, the species is in danger of extinction throughout every portion of its range and an analysis of whether there is any SPR that may be in danger of extinction or likely to become so would not result in a different outcome. Thus, we conclude that to give operational effect to both the ''throughout all'' language and the SPR phrase, the Service should conduct an SPR analysis if (and only if) a species does not warrant listing according to the ''throughout all'' language.

Because we have determined that the Guadalupe fescue is in danger of extinction throughout all of its range, we do not need to undertake an SPR analysis to determine if there are any significant portions of the species' range where the species is likely to become in danger of extinction in the foreseeable future or where it does not meet the definitions of either ''endangered species'' or ''threatened species.''

Therefore, on the basis of the best available scientific and commercial information, we are adding Guadalupe fescue to the List of Endangered and Threatened Plants as an endangered species in accordance with sections 3(6) and 4(a)(1) of the Act. We find that a threatened species status is not appropriate for Guadalupe fescue because of the immediacy of threats facing the species with only two known populations, at least one of which is declining in abundance.

Available Conservation Measures

Conservation measures provided to species listed as endangered or threatened species under the Act include recognition, recovery actions, requirements for Federal protection, and prohibitions against certain practices. Recognition through listing, results in public awareness, as well as conservation by Federal, State, Tribal, and local agencies; private organizations; and individuals. The Act encourages cooperation with the States and other countries, and calls for recovery actions to be carried out for listed species. The protection required by Federal agencies and the prohibitions against certain activities are discussed, in part, below.

The primary purpose of the Act is the conservation of endangered and threatened species and the ecosystems upon which they depend. The ultimate goal of such conservation efforts is the recovery of these listed species, so that they no longer need the protective measures of the Act. Subsection 4(f) of the Act calls for the Service to develop and implement recovery plans for the conservation of endangered and threatened species. The recovery planning process involves the identification of actions that are necessary to halt or reverse the species' decline by addressing the threats to its survival and recovery. The goal of this process is to restore listed species to a point where they are secure, self-sustaining, and functioning components of their ecosystems.

Recovery planning includes the development of a recovery outline shortly after a species is listed and preparation of a draft and final recovery plan. The recovery outline guides the immediate implementation of urgent recovery actions and describes the process to be used to develop a recovery plan. Revisions of the plan may be done to address continuing or new threats to the species, as new substantive information becomes available. The recovery plan identifies site-specific management actions that set a trigger for review of the five factors that control whether a species remains endangered or may be downlisted to threatened or delisted, and methods for monitoring recovery progress. Recovery plans also establish a framework for agencies to coordinate their recovery efforts and provide estimates of the cost of implementing recovery tasks. Recovery teams (composed of species experts, Federal and State agencies, nongovernmental organizations, and stakeholders) are often established to develop recovery plans. When completed, the recovery outline, draft recovery plan, and the final recovery plan will be available on our Web site (*http://www.fws.gov/endangered*) or from our Austin Ecological Services Field Office (see **FOR FURTHER INFORMATION CONTACT**).

Implementation of recovery actions generally requires the participation of a broad range of partners, including other

Federal agencies, States, Tribes, nongovernmental organizations, businesses, and private landowners. Examples of recovery actions include habitat restoration (*e.g.,* restoration of native vegetation), research, captive propagation and reintroduction, and outreach and education. The recovery of many listed species cannot be accomplished solely on Federal lands because their range may occur primarily or solely on non-Federal lands. To achieve recovery of these species requires cooperative conservation efforts on private, State, and Tribal lands.

Following publication of this final listing rule, funding for recovery actions will be available from a variety of sources, including Federal budgets, State programs, and cost-share grants for non-Federal landowners, the academic community, and nongovernmental organizations. In addition, pursuant to section 6 of the Act, the State of Texas will be eligible for Federal funds to implement management actions that promote the protection or recovery of the Guadalupe fescue. Information on our grant programs that are available to aid species recovery can be found at: *http://www.fws.gov/grants.*

Please let us know if you are interested in participating in recovery efforts for the Guadalupe fescue. Additionally, we invite you to submit any new information on this species whenever it becomes available and any information you may have for recovery planning purposes (see **FOR FURTHER INFORMATION CONTACT**).

Section 7(a) of the Act requires Federal agencies to evaluate their actions with respect to any species that is proposed or listed as an endangered or threatened species and with respect to its critical habitat, if any is designated. Regulations implementing this interagency cooperation provision of the Act are codified at 50 CFR part 402. Section 7(a)(2) of the Act requires Federal agencies to ensure that activities they authorize, fund, or carry out are not likely to jeopardize the continued existence of any endangered or threatened species or destroy or adversely modify its critical habitat. If a Federal action may affect a listed species or its critical habitat, the responsible Federal agency must enter into consultation with the Service.

Federal agency actions within the species' habitat that may require consultation as described in the preceding paragraph include the land management activities by the National Park Service within Big Bend National Park.

With respect to endangered plants, prohibitions outlined at 50 CFR 17.61 make it illegal for any person subject to the jurisdiction of the United States to import or export, transport in interstate or foreign commerce in the course of a commercial activity, sell or offer for sale in interstate or foreign commerce, or to remove and reduce to possession any such plant species from areas under Federal jurisdiction. In addition, for endangered plants, the Act prohibits malicious damage or destruction of any such species on any area under Federal jurisdiction, and the removal, cutting, digging up, or damaging or destroying of any such species on any other area in knowing violation of any State law or regulation, or in the course of any violation of a State criminal trespass law. Exceptions to these prohibitions are outlined in 50 CFR 17.62.

We may issue permits to carry out otherwise prohibited activities involving endangered plants under certain circumstances. Regulations governing permits are codified at 50 CFR 17.62. With regard to endangered plants, the Service may issue a permit authorizing any activity otherwise prohibited by 50 CFR 17.61 for scientific purposes or for enhancing the propagation or survival of endangered plants.

It is our policy, as published in the **Federal Register** on July 1, 1994 (59 FR 34272), to identify to the maximum extent practicable at the time a species is listed, those activities that would or would not constitute a violation of section 9 of the Act. The intent of this policy is to increase public awareness of the effect of a final listing on proposed and ongoing activities within the range of a listed species. Based on the best available information, the following actions are unlikely to result in a violation of section 9, if these activities are carried out in accordance with existing regulations and permit requirements; this list is not comprehensive:

(1) Normal agricultural and silvicultural practices conducted on privately owned lands, including herbicide and pesticide use, which are carried out in accordance with any existing regulations, permit and label requirements, and best management practices;

(2) Recreation and management at National Parks that is conducted in accordance with existing National Park Service regulations and policies; and

(3) Normal residential landscape activities.

Based on the best available information, the following activities may potentially result in a violation of section 9 of the Act; this list is not comprehensive:

(1) Unauthorized damage or collection of Guadalupe fescue from lands under Federal jurisdiction;

(2) Destruction or degradation of the species' habitat on lands under Federal jurisdiction, including the intentional introduction of nonnative organisms that compete with, consume, or harm Guadalupe fescue;

Questions regarding whether specific activities would constitute a violation of section 9 of the Act should be directed to the Austin Ecological Services Field Office (see **FOR FURTHER INFORMATION CONTACT**).

Critical Habitat

Background

Critical habitat is defined in section 3 of the Act as:

(1) The specific areas within the geographical area occupied by the species, at the time it is listed in accordance with the Act, on which are found those physical or biological features

(a) Essential to the conservation of the species, and

(b) Which may require special management considerations or protection; and

(2) Specific areas outside the geographical area occupied by the species at the time it is listed, upon a determination that such areas are essential for the conservation of the species.

Our regulations at 50 CFR 424.02 define the geographical area occupied by the species as an area that may generally be delineated around species' occurrences, as determined by the Secretary (*i.e.,* range). Such areas may include those areas used throughout all or part of the species' life cycle, even if not used on a regular basis (*e.g.,* migratory corridors, seasonal habitats, and habitats used periodically, but not solely by vagrant individuals).

Conservation, as defined under section 3 of the Act, means to use and the use of all methods and procedures that are necessary to bring an endangered or threatened species to the point at which the measures provided pursuant to the Act are no longer necessary. Such methods and procedures include, but are not limited to, all activities associated with scientific resources management such as research, census, law enforcement, habitat acquisition and maintenance, propagation, live trapping, and transplantation, and, in the extraordinary case where population pressures within a given ecosystem cannot be otherwise relieved, may include regulated taking.

Critical habitat receives protection under section 7 of the Act through the requirement that Federal agencies ensure, in consultation with the Service, that any action they authorize, fund, or carry out is not likely to result in the destruction or adverse modification of critical habitat. The designation of critical habitat does not affect land ownership or establish a refuge, wilderness, reserve, preserve, or other conservation area. Such designation does not allow the government or public to access private lands. Such designation does not require implementation of restoration, recovery, or enhancement measures by non-Federal landowners. Where a landowner requests Federal agency funding or authorization for an action that may affect a listed species or critical habitat, the consultation requirements of section 7(a)(2) of the Act would apply, but even in the event of a destruction or adverse modification finding, the obligation of the Federal action agency and the landowner is not to restore or recover the species, but to implement reasonable and prudent alternatives to avoid destruction or adverse modification of critical habitat.

Under the first prong of the Act's definition of critical habitat, areas within the geographical area occupied by the species at the time it was listed are included in a critical habitat designation if they contain physical or biological features (1) which are essential to the conservation of the species and (2) which may require special management considerations or protection. For these areas, critical habitat designations identify, to the extent known using the best scientific and commercial data available, those physical or biological features that are essential to the conservation of the species (such as space, food, cover, and protected habitat). In identifying those physical or biological features within an area, we focus on the specific features that support the life-history needs of the species, including but not limited to, water characteristics, soil type, geological features, prey, vegetation, symbiotic species, or other features. A feature may be a single habitat characteristic, or a more complex combination of habitat characteristics. Features may include habitat characteristics that support ephemeral or dynamic habitat conditions. Features may also be expressed in terms relating to principles of conservation biology, such as patch size, distribution distances, and connectivity.

Under the second prong of the Act's definition of critical habitat, we can designate critical habitat in areas outside the geographical area occupied by the species at the time it is listed, upon a determination that such areas are essential for the conservation of the species. For example, an area currently occupied by the species but that was not occupied at the time of listing may be essential to the conservation of the species and may be included in the critical habitat designation.

Section 4 of the Act requires that we designate critical habitat on the basis of the best scientific data available. Further, our Policy on Information Standards Under the Endangered Species Act (published in the **Federal Register** on July 1, 1994 (59 FR 34271)), the Information Quality Act (section 515 of the Treasury and General Government Appropriations Act for Fiscal Year 2001 (Pub. L. 106–554; H.R. 5658)), and our associated Information Quality Guidelines, provide criteria, establish procedures, and provide guidance to ensure that our decisions are based on the best scientific data available. They require our biologists, to the extent consistent with the Act and with the use of the best scientific data available, to use primary and original sources of information as the basis for recommendations to designate critical habitat.

When we are determining which areas should be designated as critical habitat, our primary source of information is generally the information developed during the listing process for the species. Information sources may include the species status assessment; any generalized conservation strategy, criteria, or outline that may have been developed for the species; the recovery plan for the species; articles in peer-reviewed journals; conservation plans developed by States and counties; scientific status surveys and studies; biological assessments; other unpublished materials; or experts' opinions or personal knowledge.

Habitat is dynamic, and species may move from one area to another over time. We recognize that critical habitat designated at a particular point in time may not include all of the habitat areas that we may later determine are necessary for the recovery of the species. For these reasons, a critical habitat designation does not signal that habitat outside the designated area is unimportant or may not be needed for recovery of the species. Areas that are important to the conservation of the species, both inside and outside the critical habitat designation, will continue to be subject to: (1) Conservation actions implemented under section 7(a)(1) of the Act, (2) regulatory protections afforded by the requirement in section 7(a)(2) of the Act for Federal agencies to ensure their actions are not likely to jeopardize the continued existence of any endangered or threatened species, and (3) section 9 of the Act's prohibitions on taking any individual of the species, including taking caused by actions that affect habitat. Federally funded or permitted projects affecting listed species outside their designated critical habitat areas may still result in jeopardy findings in some cases. These protections and conservation tools would continue to contribute to recovery of this species. Similarly, critical habitat designations made on the basis of the best available information at the time of designation will not control the direction and substance of future recovery plans, habitat conservation plans (HCPs), or other species conservation planning efforts if new information available at the time of these planning efforts calls for a different outcome.

Physical or Biological Features

In accordance with section 3(5)(A)(i) of the Act and regulations at 50 CFR 424.12(b), in determining which areas within the geographical area occupied by a species at the time of listing to designate as critical habitat, we consider the physical or biological features that are essential to the conservation of the species and which may require special management considerations or protection. For example, physical features might include gravel of a particular size required for spawning, alkali soil for seed germination, protective cover for migration, or susceptibility to flooding or fire that maintains necessary early-successional habitat characteristics. Biological features might include prey species, forage grasses, specific kinds or ages of trees for roosting or nesting, symbiotic fungi, or a particular level of nonnative species consistent with conservation needs of the listed species. The features may also be combinations of habitat characteristics and may encompass the relationship between characteristics or the necessary amount of a characteristic needed to support the life history of the species. In considering whether features are essential to the conservation of the species, the Service may consider an appropriate quality, quantity, and spatial and temporal arrangement of habitat characteristics in the context of the life-history needs, condition, and status of the species. These characteristics include but are not limited to space for individual and population growth and for normal behavior; food, water, air, light, minerals, or other nutritional or

physiological requirements; cover or shelter; sites for breeding, reproduction, or rearing (or development) of offspring; and habitats that are protected from disturbance.

We conducted a Species Status Assessment (SSA Report) for Guadalupe fescue, which is an evaluation of the best available scientific and commercial data on the status of the species. The SSA Report (Service 2016; available at: *http://www.regulations.gov* in Docket No. FWS–R2–ES–2016–0099 and FWS–R2–ES–2016–0100) is based on a thorough review of the natural history, habitats, ecology, populations, and range of Guadalupe fescue. The SSA Report provides the scientific information upon which this critical habitat determination is based (Service 2016).

Space for Individual and Population Growth and for Normal Behavior

The size of suitable habitat areas for Guadalupe fescue is likely to be important, although we do not know how large an area must be to support a viable population. However, we do know that many plant species in the Chihuahuan Desert have migrated to different elevations and latitudes, or were extirpated, since the end of the late Wisconsinan glaciation (about 11,000 years ago). Larger habitat areas provide more opportunities for populations to migrate, as plant communities and weather patterns change and, therefore, may be more suitable. Larger habitats are also expected to support larger populations and greater genetic diversity. We provisionally estimate that habitats of at least 494 ac (200 ha) are more likely to support long-term viability of Guadalupe fescue. Therefore, we determine that relatively large habitat areas that are at least 494 ac (200 ha) are important to provide the necessary space to support the physical or biological feature for this species.

Food, Water, Air, Light, Minerals, or Other Nutritional or Physiological Requirements

Precipitation is important to Guadalupe fescue, as flowering and survival rates are positively correlated with rainfall amount and timing. The amount of rainfall over longer periods, such as the previous 21 months, appears to have more influence on flowering, which occurs from August to October, than rainfall during the previous 9 months or the previous February through May (Service 2016, Appendix B). Population size may be positively correlated with rainfall over relatively long (33-month) periods. Rainfall (or drought) over shorter timeframes appears to have less effect on population size. Precipitation amounts and patterns are weather conditions that support the physical or biological features for Guadalupe fescue.

All historic and extant populations of Guadalupe fescue occur above about 1,800 meters (m) (5,905 feet (ft)) in the Chihuahuan Desert of northern Mexico and Texas, although we do not know the actual elevation tolerance of this species. Many plant species occur at relatively lower elevations in mountains where habitats are relatively cool and moist, such as in narrow ravines, north-facing slopes (in the northern hemisphere), or windward slopes where there is a pronounced rain shadow (higher rainfall on prevailing windward slopes). Larger habitat areas provide more opportunities for populations to migrate, as plant communities and weather patterns change and, therefore, may be more suitable. Nevertheless, the 1,800-m elevation contour represents the best available information regarding the elevation tolerance of this species.

Habitat areas do not need to be contiguous to be considered occupied, provided that they are not separated by wide, low-elevation gaps. This rationale is based on expected long-distance dispersal of viable seeds of Guadalupe fescue by Carmen white-tailed deer (*Odocoileus virginianus carminis*), the most common ungulate in the Chisos Mountains. The diet of Carmen white-tailed deer consists of up to 12 percent grasses. Carmen white-tailed deer use habitats with dense stands of oak and the presence of free-standing water, and the range is restricted to elevations above 906 to 1,220 m (2,970 to 4,000 ft). The estimated home range is a radius of 1.1 to 2.4 kilometers (km) (0.7 to 1.5 miles (mi)). Hence, we expect that Carmen white-tailed deer are able to disperse viable seeds of Guadalupe fescue to potential habitats that are not separated by gaps that are below about 1,000 m (3,208 ft) and more than 2.4 km (1.5 mi) wide.

All known populations of Guadalupe fescue occur in rocky or talus soils of partially shaded sites in the understory of conifer-oak woodlands within the Chihuahuan Desert. The associated vegetation consists of relatively open stands of both conifer and oak trees in varying proportions. Conifer-oak woodlands may occur in areas classified as pine, conifer, pine-oak, or conifer-oak, and as forest or woodland, on available vegetation classification maps. The conifer species typically include one or more of the following: Mexican pinyon (*Pinus cembroides*), Arizona pine (*P. arizonica*), southwestern white pine (*P. strobiformis*), alligator juniper (*Juniperus deppeana*), drooping juniper (*J. flaccida*), and Arizona cypress (*Cupressus arizonica*). Characteristic oaks include one or more of the following: Chisos red oak (*Quercus gravesii*), gray oak (*Q. grisea*), Lacey oak (*Q. laceyi*), and silverleaf oak (*Q. hypoleucoides*). Other broadleaf trees, such as bigtooth maple (*Acer grandidentatum*), may also occur in this element. Therefore, we consider areas of rocky or talus soils of partially shaded sites in the understory of conifer-oak woodlands above elevations of 1,800 m (5,905 ft) within the Chihuahuan Desert to be a physical or biological feature of Guadalupe fescue.

Habitats That Are Protected From Disturbance or Are Representative of the Historic Geographical and Ecological Distributions of a Species

The role of fire is very likely important to maintain Guadalupe fescue habitat for two reasons. First, many grass and forb understory species are stimulated during the years immediately following wildfire, but decline during long periods without fire. Second, relatively frequent forest wildfires tend to be relatively cool because large amounts of dry fuel, such as dead trees, fallen branches, and leaf litter, have not accumulated; such fires do not kill large numbers of trees or radically change the vegetation structure and composition. Conversely, wildfires that burn where fuels and small dead trees have accumulated for many years can be very hot, catastrophic events that not only kill entire stands of trees, but also kill the seeds and beneficial microorganisms in the soil, such as mycorrhizal fungi. Fire is probably inevitable in the conifer and conifer-oak forests of the Chihuahuan Desert. Thus, more frequent, relatively cool fires may be essential for the long-term sustainability of these forested ecosystems and of Guadalupe fescue populations.

Summary of Essential Physical or Biological Features

We derive the specific physical or biological features essential for Guadalupe fescue from studies of this species' habitat, ecology, and life history, as described above. Additional information can be found in the final listing rule, published elsewhere in this issue of the **Federal Register**, and in the SSA Report (Service 2016). We have determined that the following physical or biological features are essential to the conservation of Guadalupe fescue:

(1) Areas within the Chihuahuan Desert:

(a) Above elevations of 1,800 m (5,905 ft), and

(b) That contain rocky or talus soils.

(2) Associated vegetation characterized by relatively open stands of both conifer and oak trees in varying proportions. This vegetation may occur in areas classified as pine, conifer, pine-oak, or conifer-oak, and as forest or woodland, on available vegetation classification maps.

Special Management Considerations or Protection

When designating critical habitat, we assess whether the specific areas within the geographical area occupied by the species at the time of listing contain features that are essential to the conservation of the species and which may require special management considerations or protection. The features essential to the conservation of this species may require special management considerations or protection to reduce the following threats: Changes in wildfire frequency; livestock grazing; erosion and trampling by visitors hiking off the trails; and invasive species.

Management activities that could ameliorate these threats and protect the integrity of the conifer-oak habitat include, but are not limited to: (1) Conducting prescribed burns under conditions that favor relatively cool burn temperatures; (2) removing livestock, including stray and feral livestock, from Guadalupe fescue habitats; (3) appropriately maintaining trails to reduce the incidence of trampling and erosion, and informing visitors of the need to remain on trails; and (4) controlling and removing introduced invasive plants, such as horehound (*Marrubium vulgare*) and King Ranch bluestem (*Bothriochloa ischaemum*).

Criteria Used To Identify Critical Habitat

As required by section 4(b)(2) of the Act, we use the best scientific and commercial data available to designate critical habitat. In accordance with the Act and our implementing regulations at 50 CFR 424.12(b), we review available information pertaining to the habitat requirements of the species and identify specific areas within the geographical area occupied by the species at the time of listing and any specific areas outside the geographical area occupied by the species to be considered for designation as critical habitat. We are designating critical habitat in areas within the United States that are occupied by Guadalupe fescue at the time of listing. Occupied habitat for Guadalupe fescue is defined as areas with positive survey records since 2009 (when the Maderas del Carmen population in Mexico was last documented), and habitat areas around sites with positive survey records that contain conifer-oak woodlands and that are not separated by gaps of lower elevation (<1,000 m) terrain and are within the maximum distance that seed dispersal is expected to occur (about 2.4 km (1.5 mi)).

Sources of data on Guadalupe fescue occurrences include: The Texas Natural Diversity Database; herbarium records from the University of Texas, Missouri Botanical Garden, and University of Arizona; a survey report by Valdés-Reyna (2009); a status survey (Poole 1989); and monitoring data from Big Bend National Park (Sirotnak 2014). We obtained information on ecology and habitat requirements from the candidate conservation agreement (Big Bend National Park and Service 2008), scientific reports (Camp et al. 2006; Moir and Meents 1981; Zimmerman and Moir 1998), and Rare Plants of Texas (Poole et al. 2007). Big Bend National Park (2015) provided a recently revised vegetation classification map of the Park. We used digital elevation models created by the U.S. Geological Survey. We documented a review and analysis of these data sources in the SSA Report (Service 2016).

Areas Occupied at the Time of Listing

The critical habitat designation includes the only known extant population of Guadalupe fescue in the United States, within the Chisos Mountains of Big Bend National Park, which has retained the physical or biological features that will allow for the maintenance and expansion of the existing population (criteria described above). Guadalupe fescue historically occupied one additional site in the United States in McKittrick Canyon within Guadalupe Mountains National Park. However, we are not designating critical habitat there because the species has not been observed since 1952, and it is unlikely that the area is occupied at the time of listing (Armstrong 2016; Poole 2016; Sirotnak 2016). The best available information indicates that Guadalupe fescue is extirpated from McKittrick Canyon, and the habitat would no longer support the species due to the abundance of invasive grasses such as King Ranch bluestem, and, therefore, we do not consider the area within McKittrick Canyon to be essential for the conservation of the species.

We are designating a single unit of critical habitat consisting of five subunits totaling 7,815 acres (ac) (3,163 hectares (ha)). Although currently Guadalupe fescue plants have only been found in Subunit 1, we consider all subunits to be occupied because they are not separated by gaps of lower elevation (<1,000 m) terrain greater than 2.4 km (1.5 mi) wide. The entire unit lies within the Chisos Mountains of Big Bend National Park (see map in the Regulation Promulgation section, below). See Table 1, below, for summaries of land ownership and areas. No units or portions of units are being considered for exclusion or exemption.

When determining critical habitat boundaries, we made every effort to avoid including developed areas such as lands covered by buildings, pavement, and other structures because such lands lack physical or biological features necessary for Guadalupe fescue. The scale of the maps we prepared under the parameters for publication within the Code of Federal Regulations may not reflect the exclusion of such developed lands. Any such lands inadvertently left inside critical habitat boundaries shown on the maps of this final rule have been excluded by text in the final rule and are not designated as critical habitat. Therefore, a Federal action involving these lands would not trigger section 7 consultations with respect to critical habitat and the requirement of no adverse modification unless the specific action would affect the physical or biological features in the adjacent critical habitat.

We are designating critical habitat on lands that we have determined are occupied at the time of listing and contain sufficient elements of physical or biological features to support life-history processes essential to the conservation of the Guadalupe fescue. We are designating one critical habitat unit within the Chisos Mountains that contains all of the identified physical or biological features to support the life-history processes of Guadalupe fescue.

This final critical habitat designation is defined by the map, as modified by any accompanying regulatory text, presented at the end of this document in the Regulation Promulgation section. We include more detailed information on the boundaries of the critical habitat designation in the preamble of this document. We will make the coordinates or plot points or both on which the map is based available to the public on *http://www.regulations.gov* at Docket No. FWS–R2–ES–2016–0099 and FWS–R2–ES–2016–0100, on our Internet site (*https://www.fws.gov/southwest/es/AustinTexas/ESA_Our_species.html*), and at the field office responsible for the designation (see **FOR FURTHER INFORMATION CONTACT**, above).

Critical Habitat Designation

We are designating approximately 7,815 ac (3,163 ha) in one unit containing five subunits as critical habitat for Guadalupe fescue. The critical habitat area we describe below constitutes our current best assessment of areas that meet the definition of critical habitat for Guadalupe fescue. The area we are designating as critical habitat is shown in Table 1.

TABLE 1—OCCUPANCY, LAND OWNERSHIP, AND SIZE OF GUADALUPE FESCUE CRITICAL HABITAT CHISOS MOUNTAINS UNIT AND SUBUNITS

[Amounts do not total due to rounding]

Subunit	Occupied at time of listing?	Currently occupied?	Ownership	Size (ha)	Size (ac)
1	Yes	Yes	National Park Service	2,648	6,542
2	Yes	Yes	National Park Service	391	966
3	Yes	Yes	National Park Service	100	248
4	Yes	Yes	National Park Service	13	32
5	Yes	Yes	National Park Service	10	25
Total				3,163	7,815

Below, we present a brief description of the Chisos Mountains Unit and reasons why it and the subunits contained within meet the definition of critical habitat for Guadalupe fescue.

Unit 1: Chisos Mountains

Unit 1 consists of 7,815 ac (3,163 ha) in the Chisos Mountains of Big Bend National Park. This unit is within the geographical area occupied by the species at the time of listing and contains all of the physical or biological features essential to the conservation of Guadalupe fescue. The habitat within Unit 1 consists of elevations of 1,800 m (5,905 ft) or greater, and the associated vegetation is classified as pine, pine-oak, juniper-oak, or conifer-oak. The geographic delineation of the unit resulted in five subunits that are separated from each other by narrow gaps of lower elevation terrain, but are otherwise similar with respect to vegetation, geological substrate, and soils. The physical or biological features in this unit may require special management considerations or protection to address threats from changes in wildfire frequency, livestock grazing, erosion and trampling by visitors hiking off the trail, and invasive species.

Effects of Critical Habitat Designation

Section 7 Consultation

Section 7(a)(2) of the Act requires Federal agencies, including the Service, to ensure that any action they fund, authorize, or carry out is not likely to jeopardize the continued existence of any endangered species or threatened species or result in the destruction or adverse modification of designated critical habitat of such species.

On February 11, 2016, we published a final rule (81 FR 7214) that sets forth a new definition of destruction or adverse modification. Destruction or adverse modification means a direct or indirect alteration that appreciably diminishes the value of critical habitat for the conservation of a listed species. Such alterations may include, but are not limited to, those that alter the physical or biological features essential to the conservation of a species or that preclude or significantly delay development of such features.

If a Federal action may affect a listed species or its critical habitat, the responsible Federal agency (action agency) must enter into consultation with us. Examples of actions that are subject to the section 7 consultation process are actions on State, tribal, local, or private lands that require a Federal permit (such as a permit from the U.S. Army Corps of Engineers under section 404 of the Clean Water Act (33 U.S.C. 1251 *et seq.*) or a permit from the Service under section 10 of the Act) or that involve some other Federal action (such as funding from the Federal Highway Administration, Federal Aviation Administration, or the Federal Emergency Management Agency). Federal actions not affecting listed species or critical habitat, and actions on State, tribal, local, or private lands that are not federally funded or authorized, do not require section 7 consultation.

As a result of section 7 consultation, we document compliance with the requirements of section 7(a)(2) through our issuance of:

(1) A concurrence letter for Federal actions that may affect, but are not likely to adversely affect, listed species or critical habitat; or

(2) A biological opinion for Federal actions that may affect and are likely to adversely affect, listed species or critical habitat.

When we issue a biological opinion concluding that a project is likely to jeopardize the continued existence of a listed species and/or destroy or adversely modify critical habitat, we provide reasonable and prudent alternatives to the project, if any are identifiable, that would avoid the likelihood of jeopardy and/or destruction or adverse modification of critical habitat. We define ''reasonable and prudent alternatives'' (at 50 CFR 402.02) as alternative actions identified during consultation that:

(1) Can be implemented in a manner consistent with the intended purpose of the action;

(2) Can be implemented consistent with the scope of the Federal agency's legal authority and jurisdiction;

(3) Are economically and technologically feasible; and

(4) Would, in the Director's opinion, avoid the likelihood of jeopardizing the continued existence of the listed species and/or avoid the likelihood of destroying or adversely modifying critical habitat.

Reasonable and prudent alternatives can vary from slight project modifications to extensive redesign or relocation of the project. Costs associated with implementing a reasonable and prudent alternative are similarly variable.

Regulations at 50 CFR 402.16 require Federal agencies to reinitiate consultation on previously reviewed actions in instances where we have listed a new species or subsequently designated critical habitat that may be affected and the Federal agency has retained discretionary involvement or control over the action (or the agency's discretionary involvement or control is authorized by law). Consequently, Federal agencies sometimes may need to request reinitiation of consultation with

us on actions for which formal consultation has been completed, if those actions with discretionary involvement or control may affect subsequently listed species or designated critical habitat.

Application of the ''Adverse Modification'' Standard

The key factor related to the adverse modification determination is whether, with implementation of the proposed Federal action, the affected critical habitat would continue to serve its intended conservation role for the species. Activities that may destroy or adversely modify critical habitat are those that result in a direct or indirect alteration that appreciably diminishes the value of critical habitat for the conservation of Guadalupe fescue. Such alterations may include, but are not limited to, those that alter the physical or biological features essential to the conservation of this species or that preclude or significantly delay development of such features. As discussed above, the role of critical habitat is to support physical or biological features essential to the conservation of a listed species and provide for the conservation of the species.

Section 4(b)(8) of the Act requires us to briefly evaluate and describe, in any proposed or final regulation that designates critical habitat, activities involving a Federal action that may destroy or adversely modify such habitat, or that may be affected by such designation.

Activities that may affect critical habitat, when carried out, funded, or authorized by a Federal agency, should result in consultation for Guadalupe fescue. These activities include, but are not limited to:

(1) Actions that would remove or significantly alter the conifer-oak woodland vegetation. Such actions could include, but are not limited to, cutting or killing trees and shrubs to an extent that a site is no longer suitable to Guadalupe fescue, due to increased levels of sunlight, exposure to wind, or other factors. Fire suppression has changed the natural wildfire cycle and may have altered the conifer-oak woodland habitat to an extent that it is no longer optimal for Guadalupe fescue due to increased tree and shrub densities. Hence, pruning or thinning of woody vegetation may benefit Guadalupe fescue if the tree canopy is too dense; therefore, prescribed pruning or thinning would not be considered adverse modification. The introduction of invasive plants could also adversely affect Guadalupe fescue through increased competition for light, water, and nutrients, or through an allelopathic effect (the suppression of growth of one plant species by another due to the release of toxic substances).

(2) Actions that disturb the soil, or lead to increased soil erosion. Such actions could include, but are not limited to, excavation of the soil; removal of vegetation and litter; or construction of roads, trails, or structures that channel runoff and form gullies. The loss or disturbance of soil could deplete the soil seed bank of Guadalupe fescue or alter soil depth and composition to a degree that is no longer suitable for Guadalupe fescue. However, some actions that affect soil or litter may be prescribed to improve habitat conditions for Guadalupe fescue, such as prescribed burning, and would, therefore, not be considered adverse modifications.

Exemptions

Application of Section 4(a)(3) of the Act

Section 4(a)(3)(B)(i) of the Act (16 U.S.C. 1533(a)(3)(B)(i)) provides that: ''The Secretary shall not designate as critical habitat any lands or other geographical areas owned or controlled by the Department of Defense, or designated for its use, that are subject to an integrated natural resources management plan [INRMP] prepared under section 101 of the Sikes Act (16 U.S.C. 670a), if the Secretary determines in writing that such plan provides a benefit to the species for which critical habitat is proposed for designation.'' There are no Department of Defense lands with a completed INRMP within the critical habitat designation.

Consideration of Impacts Under Section 4(b)(2) of the Act

Section 4(b)(2) of the Act states that the Secretary shall designate and make revisions to critical habitat on the basis of the best available scientific data after taking into consideration the economic impact, national security impact, and any other relevant impact of specifying any particular area as critical habitat. The Secretary may exclude an area from critical habitat if he determines that the benefits of such exclusion outweigh the benefits of specifying such area as part of the critical habitat, unless he determines, based on the best scientific data available, that the failure to designate such area as critical habitat will result in the extinction of the species. In making that determination, the statute on its face, as well as the legislative history, are clear that the Secretary has broad discretion regarding which factor(s) to use and how much weight to give to any factor.

When considering the benefits of exclusion, we consider, among other things, whether exclusion of a specific area is likely to result in conservation; the continuation, strengthening, or encouragement of partnerships; or implementation of a management plan. In the case of Guadalupe fescue, the benefits of critical habitat include public awareness of the presence of Guadalupe fescue and the importance of habitat protection, and, where a Federal nexus exists, increased habitat protection for Guadalupe fescue due to protection from adverse modification or destruction of critical habitat. In practice, situations with a Federal nexus exist primarily on Federal lands or for projects undertaken by Federal agencies. Because Guadalupe fescue critical habitat is located exclusively on National Park Service lands, a Federal nexus exists for any action.

Consideration of Economic Impacts

Section 4(b)(2) of the Act and its implementing regulations require that we consider the economic impact that may result from a designation of critical habitat. In order to consider economic impacts, we prepared an incremental effects memorandum (IEM) and screening analysis which together with our narrative and interpretation of effects we consider our draft economic analysis (DEA) of the proposed critical habitat designation and related factors (IeC, 2016, entire). The analysis, dated April 27, 2016, was made available for public review from September 9, 2016, through November 8, 2016 (IeC, 2016 entire). The DEA addressed probable economic impacts of critical habitat designation for Guadalupe fescue. Following the close of the comment period, we reviewed and evaluated all information submitted during the comment period that may pertain to our consideration of the probable incremental economic impacts of this critical habitat designation. Additional information relevant to the probable incremental economic impacts of critical habitat designation for the Guadalupe fescue is summarized below and available in the screening analysis for the Guadalupe fescue (IeC, 2016, entire), available at *http://www.regulations.gov* in Docket No. FWS–R2–ES–2016–0099 and FWS–R2–ES–2016–0100.

Executive Orders (E.O.s) 12866 and 13563 direct Federal agencies to assess the costs and benefits of available regulatory alternatives in quantitative (to the extent feasible) and qualitative terms. Consistent with the E.O.s'

regulatory analysis requirements, our effects analysis under the Act may take into consideration impacts to both directly and indirectly affected entities, where practicable and reasonable. If sufficient data are available, we assess, to the extent practicable, the probable impacts to both directly and indirectly affected entities. As part of our screening analysis, we considered the types of economic activities that are likely to occur within the areas likely to be affected by the critical habitat designation. In our evaluation of the probable incremental economic impacts that may result from the proposed designation of critical habitat for Guadalupe fescue, first we identified, in the IEM dated February 23, 2016, probable incremental economic impacts associated with the following category of activities: Federal lands management (National Park Service, Big Bend National Park).

We considered each industry or category individually. Additionally, we considered whether their activities have any Federal involvement. Critical habitat designation generally will not affect activities that do not have any Federal involvement; under the Act, designation of critical habitat only affects activities conducted, funded, permitted, or authorized by Federal agencies. In areas where Guadalupe fescue is present, the National Park Service will be required to consult with the Service under section 7 of the Act on activities they fund, permit, or implement that may affect the species. Additionally, consultations to avoid the destruction or adverse modification of critical habitat would be incorporated into the existing consultation process. Therefore, disproportionate impacts to any geographic area or sector are not likely as a result of this critical habitat designation.

The critical habitat designation for Guadalupe fescue consists of a single unit of critical habitat consisting of five subunits currently occupied by the species. We are not designating any units of unoccupied habitat. The Chisos Mountains critical habitat unit totals 7,815 ac (3,163 ha) and is entirely contained within federally owned land at Big Bend National Park. We have not identified any ongoing or future actions that would warrant additional recommendations or project modifications to avoid adversely modifying critical habitat above those we would recommend for avoiding jeopardy.

Regarding projects that would occur in occupied habitat outside known population locations, we will recommend that Big Bend National Park first conduct surveys for Guadalupe fescue within the project impact area. If the species is found, we would recommend the same modifications previously described for avoiding jeopardy to the species. If the species is not found, we will recommend only that Big Bend National Park follow its established land management procedures.

We anticipate minimal change in behavior at Big Bend National Park if we designate critical habitat for Guadalupe fescue. The only change we foresee is conducting surveys in areas of critical habitat based on our recommendation for surveys. Based on Big Bend National Park's history of consultation under section 7 of the Act and on the consultation history of the most comparable species, Zapata bladderpod (*Lesquerella thamnophila*), we anticipate that this critical habitat designation may result in a maximum of two additional consultations per decade.

Exclusions

Exclusions Based on Economic Impacts

The Service considered the economic impacts of the critical habitat designation, and the Secretary is not exercising his discretion to exclude any areas from this designation of critical habitat for the Guadalupe fescue based on economic impacts.

A copy of the IEM and screening analysis with supporting documents may be obtained by contacting the Austin Ecological Services Field Office (see **ADDRESSES**) or by downloading from the Internet at *http://www.regulations.gov* in Docket No. FWS–R2–ES–2016–0099 and FWS–R2–ES–2016–0100.

Exclusions Based on National Security Impacts

Under section 4(b)(2) of the Act, we consider whether there are lands where a national security impact might exist. In preparing this final rule, we have determined that the lands within the final designation of critical habitat for Guadalupe fescue are not owned or managed by the Department of Defense or Department of Homeland Security. In addition, the locations of the critical habitat areas are at high elevations in remote areas of Big Bend National Park and not close enough to the international border with Mexico to raise any border maintenance concerns. The closest critical habitat is approximately 20.1 km (12.5 mi) away from Mexican border. Therefore, we anticipate no impact on national security. Consequently, the Secretary is not intending to exercise his discretion to exclude any areas from the final designation based on impacts on national security.

Exclusions Based on Other Relevant Impacts

Under section 4(b)(2) of the Act, we consider any other relevant impacts, in addition to economic impacts and impacts on national security. We consider a number of factors, including whether the landowners have developed any HCPs or other management plans for the area, or whether there are conservation partnerships that would be encouraged by designation of, or exclusion from, critical habitat. In addition, we look at any tribal issues, and consider the government-to-government relationship of the United States with tribal entities. We also consider any social impacts that might occur because of the designation.

In preparing this final rule, we have determined that there are currently no HCPs or other management plans for Guadalupe fescue, and the final designation does not include any tribal lands or trust resources. We anticipate no impact on tribal lands, partnerships, or HCPs from this critical habitat designation. Accordingly, the Secretary does not intend to exercise his discretion to exclude any areas from the final designation based on other relevant impacts.

Required Determinations

Regulatory Planning and Review (Executive Orders 12866 and 13563)

Executive Order 12866 provides that the Office of Information and Regulatory Affairs (OIRA) will review all significant rules. The Office of Information and Regulatory Affairs has determined that this rule is not significant.

Executive Order 13563 reaffirms the principles of E.O. 12866 while calling for improvements in the nation's regulatory system to promote predictability, to reduce uncertainty, and to use the best, most innovative, and least burdensome tools for achieving regulatory ends. The executive order directs agencies to consider regulatory approaches that reduce burdens and maintain flexibility and freedom of choice for the public where these approaches are relevant, feasible, and consistent with regulatory objectives. E.O. 13563 emphasizes further that regulations must be based on the best available science and that the rulemaking process must allow for public participation and an open exchange of ideas. We have developed

this rule in a manner consistent with these requirements.

Regulatory Flexibility Act (5 U.S.C. 601 et seq.)

Under the Regulatory Flexibility Act (RFA; 5 U.S.C. 601 *et seq.*), as amended by the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA; 5 U.S.C. 801 *et seq.*), whenever an agency is required to publish a notice of rulemaking for any proposed or final rule, it must prepare and make available for public comment a regulatory flexibility analysis that describes the effects of the rule on small entities (*i.e.,* small businesses, small organizations, and small government jurisdictions). However, no regulatory flexibility analysis is required if the head of the agency certifies the rule will not have a significant economic impact on a substantial number of small entities. The SBREFA amended the RFA to require Federal agencies to provide a certification statement of the factual basis for certifying that the rule will not have a significant economic impact on a substantial number of small entities.

According to the Small Business Administration, small entities include small organizations such as independent nonprofit organizations; small governmental jurisdictions, including school boards and city and town governments that serve fewer than 50,000 residents; and small businesses (13 CFR 121.201). Small businesses include manufacturing and mining concerns with fewer than 500 employees, wholesale trade entities with fewer than 100 employees, retail and service businesses with less than $5 million in annual sales, general and heavy construction businesses with less than $27.5 million in annual business, special trade contractors doing less than $11.5 million in annual business, and agricultural businesses with annual sales less than $750,000. To determine if potential economic impacts to these small entities are significant, we considered the types of activities that might trigger regulatory impacts under this designation as well as types of project modifications that may result. In general, the term ''significant economic impact'' is meant to apply to a typical small business firm's business operations.

The Service's current understanding of the requirements under the RFA, as amended, and following recent court decisions, is that Federal agencies are only required to evaluate the potential incremental impacts of rulemaking on those entities directly regulated by the rulemaking itself, and, therefore, are not required to evaluate the potential impacts to indirectly regulated entities. The regulatory mechanism through which critical habitat protections are realized is section 7 of the Act, which requires Federal agencies, in consultation with the Service, to ensure that any action authorized, funded, or carried out by the Agency is not likely to adversely modify critical habitat. Therefore, under section 7, only Federal action agencies are directly subject to the specific regulatory requirement (avoiding destruction and adverse modification) imposed by critical habitat designation. Consequently, it is our position that only Federal action agencies will be directly regulated by this designation. Moreover, Federal agencies are not small entities. Therefore, because no small entities are directly regulated by this rulemaking, the Service certifies that this final critical habitat designation will not have a significant economic impact on a substantial number of small entities.

In summary, we have considered whether the final designation would result in a significant economic impact on a substantial number of small entities. For the above reasons and based on currently available information, we certify that the final critical habitat designation would not have a significant economic impact on a substantial number of small business entities. Therefore, a regulatory flexibility analysis is not required.

Energy Supply, Distribution, or Use—Executive Order 13211

Executive Order 13211 (Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use) requires agencies to prepare Statements of Energy Effects when undertaking certain actions. In our economic analysis, we did not find that the designation of this final critical habitat will significantly affect energy supplies, distribution, or use, because the critical habitat unit is entirely contained within Big Bend National Park. Therefore, this action is not a significant energy action, and no Statement of Energy Effects is required.

Unfunded Mandates Reform Act (2 U.S.C. 1501 et seq.)

In accordance with the Unfunded Mandates Reform Act (2 U.S.C. 1501 *et seq.*), we make the following findings:

(1) This rule would not produce a Federal mandate. In general, a Federal mandate is a provision in legislation, statute, or regulation that would impose an enforceable duty upon State, local, or tribal governments, or the private sector, and includes both ''Federal intergovernmental mandates'' and ''Federal private sector mandates.'' These terms are defined in 2 U.S.C. 658(5)–(7). ''Federal intergovernmental mandate'' includes a regulation that ''would impose an enforceable duty upon State, local, or tribal governments'' with two exceptions. It excludes ''a condition of Federal assistance.'' It also excludes ''a duty arising from participation in a voluntary Federal program,'' unless the regulation ''relates to a then-existing Federal program under which $500,000,000 or more is provided annually to State, local, and tribal governments under entitlement authority,'' if the provision would ''increase the stringency of conditions of assistance'' or ''place caps upon, or otherwise decrease, the Federal Government's responsibility to provide funding,'' and the State, local, or tribal governments ''lack authority'' to adjust accordingly. At the time of enactment, these entitlement programs were: Medicaid; Aid to Families with Dependent Children work programs; Child Nutrition; Food Stamps; Social Services Block Grants; Vocational Rehabilitation State Grants; Foster Care, Adoption Assistance, and Independent Living; Family Support Welfare Services; and Child Support Enforcement. ''Federal private sector mandate'' includes a regulation that ''would impose an enforceable duty upon the private sector, except (i) a condition of Federal assistance or (ii) a duty arising from participation in a voluntary Federal program.''

The designation of critical habitat does not impose a legally binding duty on non-Federal Government entities or private parties. Under the Act, the only regulatory effect is that Federal agencies must ensure that their actions do not destroy or adversely modify critical habitat under section 7. While non-Federal entities that receive Federal funding, assistance, or permits, or that otherwise require approval or authorization from a Federal agency for an action, may be indirectly impacted by the designation of critical habitat, the legally binding duty to avoid destruction or adverse modification of critical habitat rests squarely on the Federal agency. Furthermore, to the extent that non-Federal entities are indirectly impacted because they receive Federal assistance or participate in a voluntary Federal aid program, the Unfunded Mandates Reform Act would not apply, nor would critical habitat shift the costs of the large entitlement programs listed above onto State governments.

(2) We do not believe that this rule would significantly or uniquely affect small governments because we are

designating only a single critical habitat unit that is entirely owned by the National Park Service. Therefore, a Small Government Agency Plan is not required.

Takings—Executive Order 12630

In accordance with E.O. 12630 (''Government Actions and Interference with Constitutionally Protected Private Property Rights''), we have analyzed the potential takings implications of designating critical habitat for Guadalupe fescue in a takings implications assessment. The Act does not authorize the Service to regulate private actions on private lands or confiscate private property as a result of critical habitat designation. Designation of critical habitat does not affect land ownership, or establish any closures or restrictions on use of or access to the designated areas. Furthermore, the designation of critical habitat does not affect landowner actions that do not require Federal funding or permits, nor does it preclude development of habitat conservation programs or issuance of incidental take permits to permit actions that do require Federal funding or permits to go forward. However, Federal agencies are prohibited from carrying out, funding, or authorizing actions that would destroy or adversely modify critical habitat. A takings implications assessment has been completed and concludes the designation of critical habitat for Guadalupe fescue would not pose significant takings implications for lands within or affected by the designation.

Federalism—Executive Order 13132

In accordance with E.O. 13132 (Federalism), this final rule does not have significant Federalism effects. A federalism summary impact statement is not required. In keeping with Department of the Interior and Department of Commerce policy, we requested information from, and coordinated development of this critical habitat designation with, appropriate State resource agencies in Texas. From a federalism perspective, the designation of critical habitat directly affects only the responsibilities of Federal agencies. The Act imposes no other duties with respect to critical habitat, either for States and local governments, or for anyone else. As a result, this final rule does not have substantial direct effects either on the States, or on the relationship between the national government and the States, or on the distribution of powers and responsibilities among the various levels of government. The designation may have some benefit to these governments because the areas that contain the features essential to the conservation of the species are more clearly defined, and the physical and biological features of the habitat necessary to the conservation of the species are specifically identified. This information does not alter where and what federally sponsored activities may occur. However, it may assist these local governments in long-range planning (because these local governments no longer have to wait for case-by-case section 7 consultations to occur).

Where State and local governments require approval or authorization from a Federal agency for actions that may affect critical habitat, consultation under section 7(a)(2) of the Act would be required. While non-Federal entities that receive Federal funding, assistance, or permits, or that otherwise require approval or authorization from a Federal agency for an action, may be indirectly impacted by the designation of critical habitat, the legally binding duty to avoid destruction or adverse modification of critical habitat rests squarely on the Federal agency.

Civil Justice Reform—Executive Order 12988

In accordance with Executive Order 12988 (Civil Justice Reform), the Office of the Solicitor has determined that the rule does not unduly burden the judicial system and that it meets the requirements of sections 3(a) and 3(b)(2) of the Order. We are designating critical habitat in accordance with the provisions of the Act. To assist the public in understanding the habitat needs of the species, the rule identifies the elements of physical or biological features essential to the conservation of the species. The areas of critical habitat are presented on a map, and this document provides several options for the interested public to obtain more detailed location information, if desired.

Paperwork Reduction Act of 1995 (44 U.S.C. 3501 et seq.)

This final rule does not contain any new collections of information that require approval by OMB under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*). This rule will not impose recordkeeping or reporting requirements on State or local governments, individuals, businesses, or organizations. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

National Environmental Policy Act (42 U.S.C. 4321 et seq.)

It is our position that, outside the jurisdiction of the U.S. Court of Appeals for the Tenth Circuit, we do not need to prepare environmental analyses pursuant to the National Environmental Policy Act (NEPA; 42 U.S.C. 4321 *et seq.*) in connection with designating critical habitat under the Act. We published a notice outlining our reasons for this determination in the **Federal Register** on October 25, 1983 (48 FR 49244). This position was upheld by the U.S. Court of Appeals for the Ninth Circuit (*Douglas County* v. *Babbitt,* 48 F.3d 1495 (9th Cir. 1995), cert. denied 516 U.S. 1042 (1996)). Because all of the final critical habitat lies outside the jurisdiction of the U.S. Court of Appeals for the Tenth Circuit, we will not prepare a NEPA analysis.

Government-to-Government Relationship With Tribes

In accordance with the President's memorandum of April 29, 1994 (Government-to-Government Relations with Native American Tribal Governments; 59 FR 22951), Executive Order 13175 (Consultation and Coordination With Indian Tribal Governments), and the Department of the Interior's manual at 512 DM 2, we readily acknowledge our responsibility to communicate meaningfully with recognized Federal Tribes on a government-to-government basis. In accordance with Secretarial Order 3206 of June 5, 1997 (American Indian Tribal Rights, Federal-Tribal Trust Responsibilities, and the Endangered Species Act), we readily acknowledge our responsibilities to work directly with tribes in developing programs for healthy ecosystems, to acknowledge that tribal lands are not subject to the same controls as Federal public lands, to remain sensitive to Indian culture, and to make information available to tribes.

We determined that Guadalupe fescue does not occur on any tribal lands at the time of listing, and no tribal lands unoccupied by Guadalupe fescue are essential for the conservation of the species. Therefore, we are not designating critical habitat for Guadalupe fescue on tribal lands.

References Cited

A complete list of references cited in this rulemaking is available on the Internet at *http://www.regulations.gov* in Docket No. FWS–R2–ES–2016–0099 and FWS–R2–ES–2016–0100 and upon request from the Austin Ecological Services Field Office (see **FOR FURTHER INFORMATION CONTACT**).

Authors

The primary authors of this final rule are the staff members of the Austin Ecological Services Field Office.

List of Subjects in 50 CFR Part 17

Endangered and threatened species, Exports, Imports, Reporting and recordkeeping requirements, Transportation.

Regulation Promulgation

Accordingly, we amend part 17, subchapter B of chapter I, title 50 of the Code of Federal Regulations, as set forth below:

PART 17—ENDANGERED AND THREATENED WILDLIFE AND PLANTS

■ 1. The authority citation for part 17 continues to read as follows:

Authority: 16 U.S.C. 1361–1407; 1531–1544; and 4201–4245, unless otherwise noted.

■ 2. Amend § 17.12(h) by adding an entry for ''*Festuca ligulata*'' to the List of Endangered and Threatened Plants in alphabetical order under FLOWERING PLANTS to read as follows:

§ 17.12 Endangered and threatened plants.

* * * * *

(h) * * *

Scientific name	Common name	Where listed	Status	Listing citations and applicable rules
Flowering Plants				
*	*	*	*	*
Festuca ligulata	Guadalupe fescue	Wherever found	E	82 FR [*Insert* ***Federal Register*** *page where the document begins*], September 7, 2017
*	*	*	*	*

■ 3. Amend § 17.96 by adding an entry for ''*Festuca ligulata* (Guadalupe fescue)'' in alphabetical order under Family Poaceae to read as follows:

§ 17.96 Critical habitat—plants.

(a) * * *

Family Poaceae: *Festuca ligulata* (Guadalupe fescue)

(1) A critical habitat unit, including five subunits, is depicted for Brewster County, Texas, on the map below.

(2) Within these areas, the physical or biological features essential to the conservation of Guadalupe fescue consist of:

(i) Areas within the Chihuahuan Desert:

(A) Above elevations of 1,800 m (5,905 ft), and

(B) That contain rocky or talus soils.

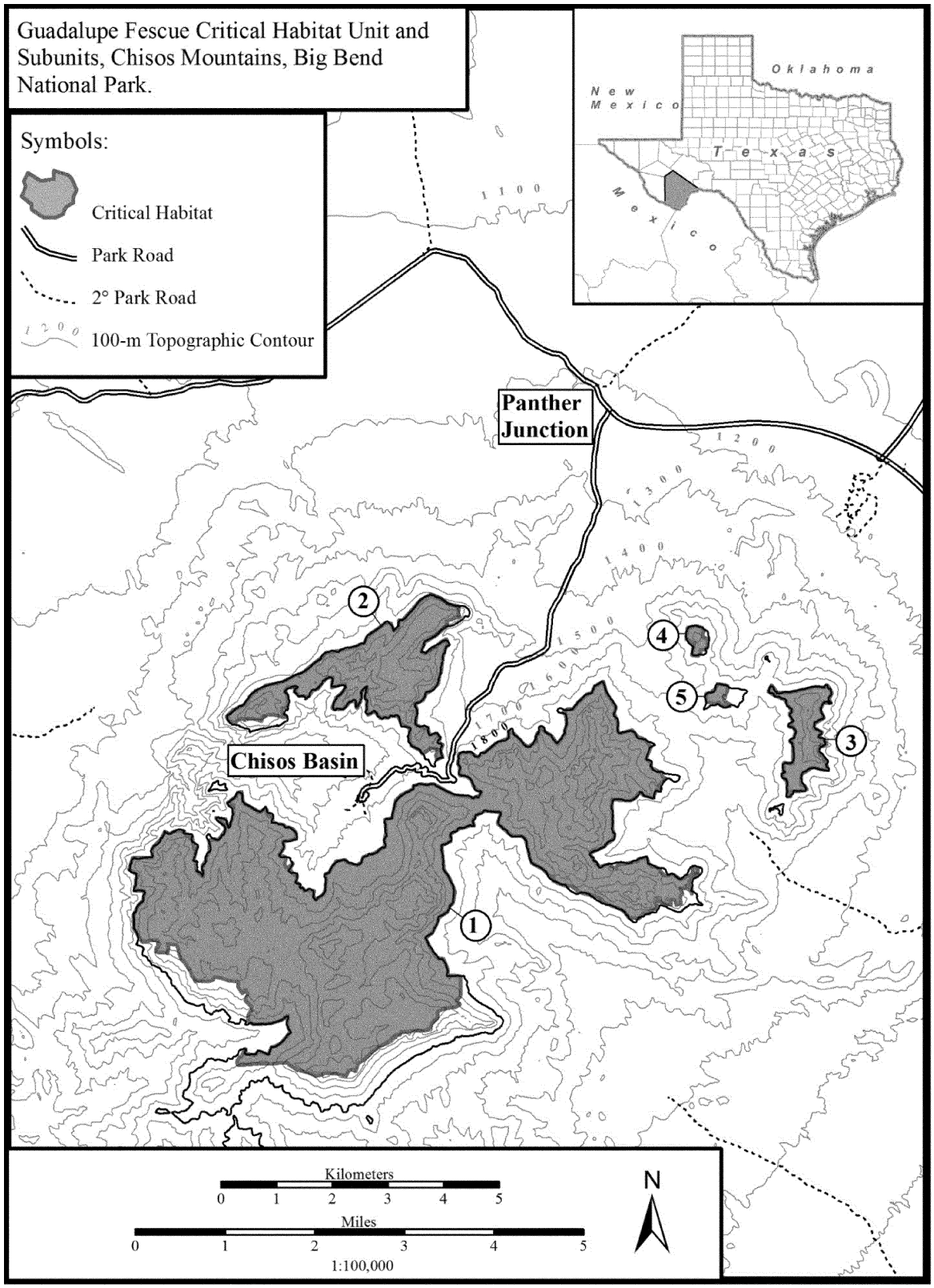
(ii) Associated vegetation characterized by relatively open stands of both conifer and oak trees in varying proportions. This vegetation may occur in areas classified as pine, conifer, pine-oak, or conifer-oak, and as forest or woodland, on available vegetation classification maps.

(3) Critical habitat does not include manmade structures (such as buildings, aqueducts, runways, roads, and other paved areas) and the land on which they are located existing within the legal boundaries on October 10, 2017.

(4) *Critical habitat map units.* We defined the critical habitat unit using the following Geographic Information System data layers: A Digital Elevation Model produced by the U.S. Geological Survey; and a Shapefile of vegetation classifications at Big Bend National Park, created and provided to us by Park personnel. The map in this entry, as modified by any accompanying regulatory text, establishes the boundaries of the critical habitat designation. The coordinates or plot points or both on which the map is based are available to the public at the Service's Internet site (*https://www.fws.gov/southwest/es/AustinTexas/ESA_Our_species.html*), at *http://www.regulations.gov* at Docket No. FWS–R2–ES–2016–0099 and FWS–R2–ES–2016–0100, and at the field office responsible for this designation. You may obtain field office location information by contacting one of the Service regional offices, the addresses of which are listed at 50 CFR 2.2.

(5) Map of Unit 1, Big Bend National Park, Brewster County, Texas, follows:

BILLING CODE P



* * * * *

Dated: August 29, 2017.

James W. Kurth,

Acting Director, U.S. Fish and Wildlife Service.

[FR Doc. 2017–19001 Filed 9–6–17; 8:45 am]

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Proposed Rules

Federal Register
Vol. 82, No. 172
Thursday, September 7, 2017

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2017–0792; Product Identifier 2017–NE–28–AD]

RIN 2120–AA64

Airworthiness Directives; General Electric Company Turbofan Engines

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: We propose to adopt a new airworthiness directive (AD) for certain General Electric Company (GE) CF6–80A, CF6–80A1, CF6–80A2, CF6–80A3, CF6–80C2A1, CF6–80C2A2, CF6–80C2A3, CF6–80C2A5, CF6–80C2A5F, CF6–80C2A8, CF6–80C2B1, CF6–80C2B1F, CF6–80C2B1F1, CF6–80C2B1F2, CF6–80C2B2, CF6–80C2B2F, CF6–80C2B3F, CF6–80C2B4, CF6–80C2B4F, CF6–80C2B5F, CF6–80C2B6, CF6–80C2B6F, CF6–80C2B6FA, CF6–80C2B7F, CF6–80C2B8F, CF6–80C2D1F, CF6–80C2L1F, and CF6–80C2K1F turbofan engines. This proposed AD was prompted by an uncontained failure of a high-pressure turbine (HPT) stage 2 disk. This proposed AD would require ultrasonic inspection (UI) of HPT stage 1 and 2 disks. We are proposing this AD to address the unsafe condition on these products.

DATES: We must receive comments on this proposed AD by October 23, 2017.

ADDRESSES: You may send comments, using the procedures found in 14 CFR 11.43 and 11.45, by any of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov.* Follow the instructions for submitting comments.
- *Fax:* 202–493–2251.
- *Mail:* U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590.
- *Hand Delivery:* Deliver to Mail address above between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

For service information identified in this NPRM, contact General Electric Company, GE Aviation, Room 285, 1 Neumann Way, Cincinnati, OH 45215; phone: 513–552–3272; email: *aviation.fleetsupport@ge.com.* You may view this service information at the FAA, Engine and Propeller Standards Branch, 1200 District Avenue, Burlington, MA. For information on the availability of this material at the FAA, call 781–238–7125.

Examining the AD Docket

You may examine the AD docket on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2017–0792; or in person at the Docket Management Facility between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this NPRM, the regulatory evaluation, any comments received, and other information. The street address for the Docket Office (phone: 800–647–5527) is in the **ADDRESSES** section. Comments will be available in the AD docket shortly after receipt.

FOR FURTHER INFORMATION CONTACT: Herman Mak, Aerospace Engineer, FAA, ECO Branch, Compliance and Airworthiness Division, 1200 District Ave., Burlington, MA 01803; phone: 781–238–7147; fax: 781–238–7199; email: *herman.mak@faa.gov.*

SUPPLEMENTARY INFORMATION:

Comments Invited

We invite you to send any written relevant data, views, or arguments about this proposal. Send your comments to an address listed under the **ADDRESSES** section. Include ''Docket No. FAA–2017–0792; Product Identifier 2017–NE–28–AD'' at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of this NPRM. We will consider all comments received by the closing date and may amend this NPRM because of those comments.

We will post all comments we receive, without change, to *http://www.regulations.gov,* including any personal information you provide. We will also post a report summarizing each substantive verbal contact we receive about this NPRM.

Discussion

We became aware of an unsafe condition from an uncontained failure of an HPT stage 2 disk that resulted in a fire. This unsafe condition was also determined to exist on some HPT stage 1 disks. This condition, if not corrected, could result in uncontained HPT disk release, damage to the engine, and damage to the airplane.

Related Service Information Under 1 CFR Part 51

We reviewed GE Service Bulletin (SB) CF6–80C2 S/B 72–1562, Revision 01, dated July 28, 2017. The SB describes procedures for UI of HPT stage 1 and 2 disks. This service information is reasonably available because the interested parties have access to it through their normal course of business or by the means identified in the **ADDRESSES** section.

FAA's Determination

We are proposing this AD because we evaluated all the relevant information and determined the unsafe condition described previously is likely to exist or develop in other products of the same type design.

Proposed AD Requirements

This proposed AD would require UI of HPT stage 1 and 2 disks.

Costs of Compliance

We estimate that this proposed AD affects 640 engines installed on airplanes of U.S. registry.

We estimate the following costs to comply with this proposed AD:

ESTIMATED COSTS

Action	Labor cost	Parts cost	Cost per product	Cost on U.S. operators
UI of HPT disk	10 work-hours × $85 per hour = $850	$0	$850	$544,000

Authority for This Rulemaking

Title 49 of the United States Code specifies the FAA's authority to issue rules on aviation safety. Subtitle I, section 106, describes the authority of the FAA Administrator. Subtitle VII: Aviation Programs, describes in more detail the scope of the Agency's authority.

We are issuing this rulemaking under the authority described in Subtitle VII, Part A, Subpart III, Section 44701: ''General requirements.'' Under that section, Congress charges the FAA with promoting safe flight of civil aircraft in air commerce by prescribing regulations for practices, methods, and procedures the Administrator finds necessary for safety in air commerce. This regulation is within the scope of that authority because it addresses an unsafe condition that is likely to exist or develop on products identified in this rulemaking action.

This AD is issued in accordance with authority delegated by the Executive Director, Aircraft Certification Service, as authorized by FAA Order 8000.51C. In accordance with that order, issuance of ADs is normally a function of the Compliance and Airworthiness Division, but during this transition period, the Executive Director has delegated the authority to issue ADs applicable to engines, propellers, and associated appliances to the Manager, Engine and Propeller Standards Branch, Policy and Innovation Division.

Regulatory Findings

We determined that this proposed AD would not have federalism implications under Executive Order 13132. This proposed AD would not have a substantial direct effect on the States, on the relationship between the national Government and the States, or on the distribution of power and responsibilities among the various levels of government.

For the reasons discussed above, I certify this proposed regulation:

(1) Is not a ''significant regulatory action'' under Executive Order 12866,

(2) Is not a ''significant rule'' under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979),

(3) Will not affect intrastate aviation in Alaska, and

(4) Will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

The Proposed Amendment

Accordingly, under the authority delegated to me by the Administrator, the FAA proposes to amend 14 CFR part 39 as follows:

PART 39—AIRWORTHINESS DIRECTIVES

■ 1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

■ 2. The FAA amends § 39.13 by adding the following new airworthiness directive (AD):

General Electric Company: Docket No. FAA–2017–0792; Product Identifier 2017–NE–28–AD.

(a) Comments Due Date

We must receive comments by October 23, 2017.

(b) Affected ADs

None.

(c) Applicability

This AD applies to General Electric Company (GE) CF6–80A, CF6–80A1, CF6–80A2, CF6–80A3, CF6–80C2A1, CF6–80C2A2, CF6–80C2A3, CF6–80C2A5, CF6–80C2A5F, CF6–80C2A8, CF6–80C2B1, CF6–80C2B1F, CF6–80C2B1F1, CF6–80C2B1F2, CF6–80C2B2, CF6–80C2B2F, CF6–80C2B3F, CF6–80C2B4, CF6–80C2B4F, CF6–80C2B5F, CF6–80C2B6, CF6–80C2B6F, CF6–80C2B6FA, CF6–80C2B7F, CF6–80C2B8F, CF6–80C2D1F, CF6–80C2L1F, and CF6–80C2K1F turbofan engines with high-pressure turbine (HPT) disks with part numbers and serial numbers listed in Table 1 and 2 of Appendix A in GE Service Bulletin (SB) CF6–80C2 S/B 72–1562, Revision 01, dated July 28, 2017.

(d) Subject

Joint Aircraft System Component (JASC) Code 7250, Turbine/Turboprop Engine—Turbine Section.

(e) Unsafe Condition

This AD was prompted by an uncontained failure of a HPT stage 2 disk. We are issuing this AD to prevent failure of the HPT disks. The unsafe condition, if not corrected, could result in an uncontained HPT disk release, damage to the engine, and damage to the airplane.

(f) Compliance

Comply with this AD within the compliance times specified, unless already done.

(g) Required Actions

After the effective date of this AD, perform an ultrasonic inspection for cracks in stage 1 and stage 2 HPT disk at each piece-part level exposure in accordance with the Accomplishment Instructions, paragraph 3.A.(2) of GE SB CF6–80C2 S/B 72–1562, Revision 01, dated July 28, 2017.

(h) Definition

For the purpose of this AD, ''piece-part exposure'' of the stage 1 or 2 disk is removal of that disk from the engine and removal of all blades from that disk.

(i) Alternative Methods of Compliance (AMOCs)

(1) The Manager, FAA, ECO Branch, Compliance and Airworthiness Division, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or local Flight Standards District Office, as appropriate. If sending information directly to the manager of the ECO Branch, send it to the attention of the person identified in paragraph (j)(1) of this AD. You may email your request to: *ANE-AD-AMOC@faa.gov.*

(2) Before using any approved AMOC, notify your appropriate principal inspector, or lacking a principal inspector, the manager of the local flight standards district office/certificate holding district office.

(j) Related Information

(1) For more information about this AD, contact Herman Mak, Aerospace Engineer, Aerospace Engineer, FAA, ECO Branch, Compliance and Airworthiness Division, 1200 District Avenue, Burlington, MA 01803; phone: 781–238–7147; fax: 781–238–7199; email: *herman.mak@faa.gov.*

(2) For service information identified in this AD, contact General Electric Company, GE Aviation, Room 285, 1 Neumann Way, Cincinnati, OH 45215; phone: 513–552–3272; email: *aviation.fleetsupport@ge.com.*

(3) You may view this referenced service information at the FAA, Engine and Propeller Standards Branch, Policy and Innovation Division, 1200 District Avenue, Burlington, MA 01803. For information on the

availability of this material at the FAA, call 781–238–7125.

Issued in Burlington, Massachusetts, on September 1, 2017.

Robert J. Ganley,

Manager, Engine and Propeller Standards Branch, Aircraft Certification Service.

[FR Doc. 2017–19018 Filed 9–6–17; 8:45 am]

BILLING CODE 4910–13–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 27

[WT Docket No. 06–150, DA 17–810]

In the Matter of Service Rules for the 698–746, 747–762, and 777–792 MHz Bands

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: In this document, the Federal Communications Commission explains the overall rules and policies for the relicensing of 700 MHz spectrum that is returned to the Commission's inventory as a result of licensees' failure to meet applicable construction requirements, as set forth by the Commission in the *700 MHz Second Report and Order* (WT Docket No. 06–150, FCC 07–132). The document seeks comment on the Wireless Telecommunications Bureau's proposed approach for implementing the various rules and policies of the relicensing process.

DATES: Interested parties may file comments on or before October 10, 2017, and reply comments on or before November 6, 2017.

ADDRESSES: You may submit comments, identified by WT Docket No. 06–150, by any of the following methods:

- *Electronic Filers:* Comments may be filed electronically using the Internet by accessing the Commission's Electronic Comment Filing System (ECFS): *http://fjallfoss.fcc.gov/ecfs2/.* See Electronic Filing of Documents in Rulemaking Proceedings, 63 FR 24121 (1998).
- *Paper Filers:* Parties who choose to file by paper must file an original and one copy of each filing. Generally if more than one docket or rulemaking number appears in the caption of this proceeding, filers must submit two additional copies for each additional docket or rulemaking number. Commenters are only required to file copies in GN Docket No. 13–111.
- Filings can be sent by hand or messenger delivery, by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail. All filings must be addressed to the Commission's Secretary, Office of the Secretary, Federal Communications Commission.
  - All hand-delivered or messenger-delivered paper filings for the Commission's Secretary must be delivered to FCC Headquarters at 445 12th St. SW., Room TW–A325, Washington, DC 20554. The filing hours are 8:00 a.m. to 7:00 p.m. All hand deliveries must be held together with rubber bands or fasteners. Any envelopes and boxes must be disposed of *before* entering the building.
  - Commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9300 East Hampton Drive, Capitol Heights, MD 20743.
  - U.S. Postal Service first-class, Express, and Priority mail must be addressed to 445 12th Street SW., Washington, DC 20554.

People with Disabilities: To request materials in accessible formats for people with disabilities (Braille, large print, electronic files, audio format), send an email to *fcc504@fcc.gov* or call the Consumer & Governmental Affairs Bureau at 202–418–0530 (voice), 202–418–0432 (TTY).

FOR FURTHER INFORMATON CONTACT: Anna Gentry, *Anna.Gentry@fcc.gov,* of the Wireless Telecommunications Bureau, Mobility Division, (202) 418–2887. For additional information concerning the PRA information collection requirements contained in this document, contact Cathy Williams at (202) 418–2918 or send an email to *PRA@fcc.gov.*

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's document in WT Docket No. 06–150, DA 17–810, released on August 28, 2017. The complete text of the *Public Notice* is available for viewing via the Commission's ECFS Web site by entering the docket number, WT Docket No. 06–150. The complete text of the documents also available for public inspection and copying from 8:00 a.m. to 4:30 p.m. Eastern Time (ET) Monday through Thursday or from 8:00 a.m. to 11:30 a.m. ET on Fridays in the FCC Reference Information Center, 445 12th Street SW., Room CY–B402, Washington, DC 20554, telephone 202–488–5300, fax 202–488–5563.

This proceeding shall continue to be treated as a ''permit-but-disclose'' proceeding in accordance with the Commission's *ex parte* rules (47 CFR 1.1200 *et seq.*). Persons making *ex parte* presentations must file a copy of any written presentation or a memorandum summarizing any oral presentation within two business days after the presentation (unless a different deadline applicable to the Sunshine period applies). Persons making oral *ex parte* presentations are reminded that memoranda summarizing the presentation must (1) list all persons attending or otherwise participating in the meeting at which the *ex parte* presentation was made, and (2) summarize all data presented and arguments made during the presentation. If the presentation consisted in whole or in part of the presentation of data or arguments already reflected in the presenter's written comments, memoranda or other filings in the proceeding, the presenter may provide citations to such data or arguments in his or her prior comments, memoranda, or other filings (specifying the relevant page and/or paragraph numbers where such data or arguments can be found) in lieu of summarizing them in the memorandum. Documents shown or given to Commission staff during *ex parte* meetings are deemed to be written *ex parte* presentations and must be filed consistent with rule 1.1206(b). In proceedings governed by rule 1.49(f) or for which the Commission has made available a method of electronic filing, written *ex parte* presentations and memoranda summarizing oral *ex parte* presentations, and all attachments thereto, must be filed through the electronic comment filing system available for that proceeding, and must be filed in their native format (*e.g.,* .doc, .xml, .ppt, searchable .pdf). Participants in this proceeding should familiarize themselves with the Commission's *ex parte* rules.

I. Synopsis

In the 2007 *700 MHz Second Report and Order,*[1] the Commission adopted rules for relicensing of 700 MHz Lower A, B, and E Block, and Upper C Block spectrum that is returned to the Commission's inventory as a result of licensees' failure to meet applicable construction requirements. The Commission set forth the overall rules and policies for the relicensing process and delegated authority to the Wireless Telecommunications Bureau (Bureau) to implement those rules and policies. To the extent the *700 MHz Second Report and Order* and other Commission rules set forth elements of the relicensing process, the *document* cites to those rules, and otherwise seeks comment on

[1] *Service Rules for 698–746, 747–762, and 777–792 MHz Bands et al.,* Second Report and Order, 22 FCC Rcd 15289 (2007) (*700 MHz Second Report and Order*).

the Bureau's proposed approach to the remaining elements of the process, including the respective costs and benefits of the various proposals.

A. Required Filing for Keep What You Serve

Pursuant to the *700 MHz Second Report and Order,* licensees that fail to meet the construction requirement and are subject to the Keep What You Serve (KWYS) KWYS rules will be required to file an electronic coverage map in order to demonstrate the geographic portion of the licensed area the licensee will retain, and the geographic area that will be returned to the Commission for reassignment. Licensees admitting failure must include the additional required filing for KWYS with their construction notification at the end-of-term construction deadline. If a licensee claims to have met the construction benchmark, but the Bureau deems the licensee to have failed after review of the construction notification, the licensee will be asked to amend its initial construction notification filing to include the additional required filing for KWYS.

In order to implement the KWYS rules, the *document* proposes and seeks comment on a process whereby licensees would demonstrate the ''served'' area of the license by filing a shapefile showing a smooth enclosed 40 dBμV/m field strength contour (Smooth Contour) of existing facilities as of the end-of-term deadline. The portion of the license market covered by the Smooth Contour would be deemed ''served'' for the purposes of the KWYS rule and become the reduced licensed area that the licensee ''keeps.'' Recognizing that some licensees might provide service at significantly lower field strength such that the 40 dBμV/m Smooth Contour would result in a reduced licensed area that is substantially smaller than the licensee's actual service area, the *document* also proposes that, if the 40 dBμV/m Smooth Contour would result in a reduced licensed area that is at least 25 percent smaller than the licensee's actual service area, the licensee could demonstrate the service area using a lower dBμV/m field strength smooth contour (Alternative Smooth Contour). Under this proposed approach, in order to be acceptable for filing, a submission using an Alternative Smooth Contour would be required to demonstrate that: (1) The licensee is operating a viable service at the lower field strength; and (2) the service area using the lower dBμV/m field strength Alternative Smooth Contour is at least 25 percent larger than it would be using the 40 dBμV/m field strength Smooth Contour. The Bureau would update the license in the Commission's Universal Licensing System (ULS) using either the Smooth Contour or Alternative Smooth Contour shapefile to reflect the reduced license boundary. The remaining portion of the original license market would be deemed unserved area and would return to the Commission's inventory for relicensing.

The *document* seeks comment on this proposed methodology for determining licensees' service area and what, if any, alternatives to this approach might achieve the Commission's goals of accurately reflecting licensees' service areas and making spectrum available for relicensing in an efficient manner.

B. Identifying Unserved Area

Pursuant to the *700 MHz Second Report and Order,* information about the available unserved areas will be publicly available. Under the approach proposed in this *document,* the Bureau would use the Smooth Contour or Alternative Smooth Contour shapefiles submitted by failing licensees to determine the unserved areas of each market. The Bureau would compile these unserved portions together as areas that would be available for relicensing and would provide instructions on how to access that information by public notice. The public notice announcing the unserved areas available for relicensing would also provide further instructions and specific dates for the commencement of the relicensing process. In setting these dates, the Bureau intends to provide potential applicants with at least 60 days prior to the commencement of relicensing to enable them to make necessary inquiries about available area, *e.g.* site leases, existing infrastructure, neighboring operations, and network and backhaul needs.

C. Phased Relicensing Process

The *document* also describes the two-phased application process for the relicensing of unserved areas, as set forth in Section 27.14 of the Commission's rules. The *document* explains that applications for available unserved areas will be filed via ULS and the applicant will select the available unserved area that they wish to serve by filing a shapefile covering that area.

In order to implement the relicensing process, this *document* proposes to provide applicants with access to a publicly available map displaying the areas available for relicensing, from which they could determine the areas they are interested in licensing. In the interest of administrative clarity and functionality, this *document* proposes limiting a single application to include one shapefile of a contiguous shape, or, if non-contiguous, requiring that the shapes be within a single market boundary. If an applicant files for non-contiguous shapes in a single application, grant of the application would result in a single license and a single buildout requirement would be applied to all shapes as a whole. Consequently, failure to meet the buildout requirement with respect to one non-contiguous shape would result in application of the penalty for failure to all shapes as a whole. This *document* seeks comment on this proposed treatment of applications for available unserved areas and what, if any, further restrictions or methods might be necessary to ensure efficient processing and review of applications filed during the relicensing process.

D. Phase 1 of Relicensing

As set forth in the Commission's rules, relicensing will begin with a 30-day Phase 1 filing window. Pursuant to section 27.14, the original licensee of available unserved areas, whose authorization to serve that area terminated due to failure to meet the end-of-term construction benchmark, is barred during Phase 1 from applying to relicense that area. This Phase 1 bar is specific to each unserved area, and therefore an applicant that is barred from one unserved area during Phase 1 is not barred from applying for other available areas for which it was not the original licensee.

In order to implement the Phase 1 bar, this *document* proposes to apply the bar to any applicant that has any interest or ownership in, or any control of, the original licensee and to any applicant in which the original licensee has any interest, ownership, or control. This *document* seeks comment on requiring applicants to certify in the application that: (1) The applicant is not the original licensee of the unserved area; (2) the applicant does not have any interest in or own or control any part of the original licensee of the unserved area; and (3) the original licensee of the unserved area does not have any interest in or own or control any part of the applicant. This *document* seeks comment on this approach and potential alternatives for applying the bar, including application of the Commission's *pro forma* standard for determining ownership, which looks to both *de jure* and *de facto* control of the licensee.

Pursuant to the Commission's Part 1 rules, at the end of the 30-day Phase 1 filing window, the Bureau will issue a public notice listing applications found

acceptable for filing during Phase 1. The public notice will identify which acceptable applications, if any, are mutually exclusive with each other. All applications received during the Phase 1 filing window for a particular available unserved area are treated as contemporaneous for the purposes of mutual exclusivity. Pursuant to section 27.14(j)(1), applications will be deemed mutually exclusive if they propose areas overlapping with other applications. Consistent with the *700 MHz Second Report and Order,* no further mutually exclusive applications may be filed after the 30-day filing window has ended, but licensees and third parties may file petitions to deny any pending applications within 30 days of the release of the public notice listing Phase 1 applications found acceptable for filing. This *document* explains that, subject to the Greenmail Rule, applicants may resolve mutual exclusivity by withdrawing or filing a minor amendment to one or both of the mutually exclusive applications, and describes the types of amendments that qualify as a minor amendment, rather than a major amendment, which requires a new public notice period.

In order to implement these policies concerning mutually exclusive applications, this *document* proposes that applicants would be permitted to resolve their mutually exclusive applications or attempt to reach a settlement during the public notice period that follows the Phase 1 filing window. Similar to the Commission's approach in other licensing and competitive bidding contexts, this *document* proposes that the definition of mutually exclusive applications would include ''daisy chains'' of mutual exclusivity, which occur when two or more applications contain proposed areas that do not directly overlap, but are linked together into a chain by the overlapping proposal(s) of other(s).

E. Phase 2 of Relicensing

As set forth in the rules establishing the relicensing process, during Phase 2 interested applicants, including those that were barred during Phase 1, may file applications for available unserved areas that were not licensed during Phase 1 or for which there are no pending applications.

In order to implement the Phase 2 process, this *document* proposes and seeks comment on a process whereby the Bureau would update the publicly available relicensing map following Phase 1 to reflect pending applications, licenses that were issued, and area that remains available for relicensing. As with Phase 1, this *document* proposes that the definition of mutual exclusivity for Phase 2 applications would include applications that, though not mutually exclusive of the first-filed application, are mutually exclusive of another application that overlaps the first-filed application—*i.e.,* a ''daisy chain'' as described above. This *document* proposes that the public notice for the first-filed application would determine the applicable filing period for all subsequent mutually exclusive or ''daisy chain'' applications. Following a Phase 2 application's 30-day public notice, this *document* proposes and seeks comment on a process whereby, if the Bureau determines there are existing applications that are mutually exclusive of the initial application, it would notify the parties of the conflicting applications and provide 60 days to resolve the mutual exclusivity. Any mutually exclusive applications that are not resolved by the end of the 60-day period would be subject to auction. This *document* seeks comment on this proposed approach to mutual exclusivity during Phase 2.

F. Relicensed Area Construction Requirement and Showing

As set forth in section 27.14(j)(3), licensees of 700 MHz licenses acquired through the relicensing process will have one year from the date the new license is issued to complete construction, provide signal coverage, and offer service over 100 percent of the geographic area of the new license area. Pursuant to the Commission's rules, if the licensee fails to meet this construction requirement, its license will automatically terminate without Commission action and it will not be eligible to apply to provide service to this area at any future date.

In order to implement the Commission's goals of facilitating rapid deployment of service on relicensed spectrum and to prevent potential gaming of the relicensing process, this *document* proposes to treat any modification, cancellation, or assignment of a license as failure to provide signal coverage and offer service to the entire relicensed area, such that the penalty for failure would apply. Specifically, under the proposal, licensees would not be permitted to modify the licensed area prior to meeting the one-year construction benchmark in order to reduce the area they must cover. Cancellation of the license prior to meeting the one-year construction benchmark would also constitute failure, and the former licensee would not be eligible to apply to serve any portion of this area at any future date. Finally, licensees would be permitted to file applications to assign licenses acquired through relicensing (including requests to partition and disaggregate) only after they have demonstrated that they have met the construction benchmark. This *document* seeks comment on this approach to the construction requirement and what, if any, further restrictions might be necessary to promote the Commission's goals in establishing the requirements.

In order to implement the construction requirement for relicensed area, this *document* proposes that, at the one-year construction deadline, licensees would be required to demonstrate that they provide signal coverage and offer service over 100 percent of the geographic area by filing either a Smooth Contour or an Alternative Smooth Contour, consistent with the proposed required filings for KWYS. This *document* seek comment on what, if any, alternative filings might be appropriate methods for licensees to demonstrate that they satisfy the construction requirement.

Given the proposed requirements and penalties for failing to meet the construction requirement, this *document* notes that it is particularly important that potential participants in the relicensing process only apply for portions of available unserved areas if they, through due diligence, have determined they can provide signal coverage and offer service over 100 percent of the area within one year from the date of license issuance. Under approach proposed in this *document,* it would be particularly important that potential licensees conduct due diligence prior to applying for available unserved areas during the relicensing process and ensure the shapefile used in their application is an accurate reflection of the Smooth Contour or Alternative Smooth Contour they would be required to file at the one-year construction deadline. Additionally, the Bureau recommends that potential licensees review the technical narratives and specifications of construction notifications that the Bureau has previously accepted for the 700 MHz band.

II. Procedural Matters

Initial Regulatory Flexibility Act Analysis

As required by the Regulatory Flexibility Act of 1980 (RFA), the Commission prepared an Initial Regulatory Flexibility Analysis (IRFA) in connection with the *700 MHz Further*

Notice [2] and a Final Regulatory Flexibility Analysis (FRFA) in connection with the *700 MHz Second Report and Order.*[3] While no commenter directly responded to the IRFA, the FRFA addressed concerns about the impact on small business of the KWYS rules. The IRFA and FRFA set forth the need for and objectives of the Commission's rules for the KWYS rules; the legal basis for those rules, a description and estimate of the number of small entities to which the rules apply; a description of projected reporting, recordkeeping, and other compliance requirements for small entities; steps taken to minimize the significant economic impact on small entities and significant alternatives considered; and a statement that there are no federal rules that may duplicate, overlap, or conflict with the rules. The proposals in this *document* do not change any of those descriptions.

This *document* does, however, detail proposed procedures for implementing those rules. Therefore, this *document* seeks comment on how the proposals in this *document* could affect either the IRFA or the FRFA. Such comments must be filed in accordance with the same filing deadlines for responses to this *document* and have a separate and distinct heading designating them as responses to the IRFA and FRFA.

Initial Paperwork Reduction Act Analysis

The *document* contains proposed new information collection requirements. The Commission, as part of its continuing effort to reduce paperwork burdens, invites the general public and OMB to comment on the information collection requirements contained in this document, as required by PRA. In addition, pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107–198, see 44 U.S.C. 3506(c)(4), the Commission seeks specific comment on how it might ''further reduce the information collection burden for small business concerns with fewer than 25 employees.''

Federal Communications Commission.

Nese Guendelsberger,

Senior Deputy Bureau Chief, Wireless Telecommunications Bureau.

[FR Doc. 2017–18987 Filed 9–6–17; 8:45 am]

BILLING CODE 6712–01–P

[2] *Service Rules for 698–746, 747–762, and 777–792 MHz Bands et al.,* Report and Order and Further Notice of Proposed Rulemaking, 22 FCC Rcd 8064, 8212 (2007) (*700 MHz Further Notice*).

[3] *700 MHz Second Report and Order,* 22 FCC Rcd at 15542.

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[Docket No. 170717675–7675–01]

RIN 0648–XF571

Fisheries of the Northeastern United States; Golden Tilefish Fishery; 2018 and Projected 2019–2020 Specifications

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Proposed rule; request for comments.

SUMMARY: NMFS proposes specifications for the 2018 commercial golden tilefish fishery and projected specifications for 2019 and 2020. The proposed action is intended to establish allowable harvest levels and other management measures to prevent overfishing while allowing optimum yield, consistent with the Magnuson-Stevens Fishery Conservation and Management Act and the Tilefish Fishery Management Plan. It is also intended to inform the public of these proposed specifications for the 2018 fishing year and projected specifications for 2019–2020.

DATES: Comments must be received by 5 p.m. local time, on September 22, 2017.

ADDRESSES: You may submit comments on this document, identified by NOAA–NMFS–2017–0091, by either of the following methods:

ELECTRONIC SUBMISSION: Submit all electronic public comments via the Federal e-Rulemaking Portal.

1. Go to *www.regulations.gov/#!docketDetail;D=NOAA-NMFS-2017-0091,*

2. Click the ''Comment Now!'' icon, complete the required fields.

3. Enter or attach your comments.

- OR -

MAIL: Submit written comments to John Bullard, Regional Administrator, National Marine Fisheries Service, 55 Great Republic Drive, Gloucester, MA 01930. Mark the outside of the envelope: ''Comments on the Proposed Rule for Golden Tilefish Specifications.''

INSTRUCTIONS: Comments sent by any other method, to any other address or individual, or received after the end of the comment period, may not be considered by NMFS. All comments received are part of the public record and will generally be posted for public viewing on *www.regulations.gov* without change. All personal identifying information (*e.g.,* name, address, etc.), confidential business information, or otherwise sensitive information submitted voluntarily by the sender will be publicly accessible. NMFS will accept anonymous comments (enter ''N/A'' in the required fields if you wish to remain anonymous).

A draft environmental assessment (EA) has been prepared for this action that describes the proposed measures and other considered alternatives, as well as provides an analysis of the impacts of the proposed measures and alternatives. Copies of the specifications document, including the EA and the Initial Regulatory Flexibility Analysis (IRFA), are available on request from Dr. Christopher M. Moore, Executive Director, Mid-Atlantic Fishery Management Council, Suite 201, 800 North State Street, Dover, DE 19901. These documents are also accessible via the Internet at *http://www.mafmc.org.*

FOR FURTHER INFORMATION CONTACT: Cynthia Hanson, Fishery Management Specialist, (978) 281–9180.

SUPPLEMENTARY INFORMATION:

Background

The golden tilefish fishery is managed by the Mid-Atlantic Fishery Management Council under the Tilefish Fishery Management Plan (FMP), which outlines the Council's process for establishing annual specifications. The FMP requires the Council to recommend acceptable biological catch (ABC), annual catch limit (ACL), annual catch target (ACT), total allowable landings (TAL), and other management measures, for up to three years at a time. The directed fishery is managed under an individual fishing quota (IFQ) program, with small amounts of non-IFQ catch allowed under an incidental permit. The Council's Scientific and Statistical Committee (SSC) provides an ABC recommendation to the Council to derive these catch limits. The Council makes recommendations to NMFS that cannot exceed the recommendation of its SSC. The Council's recommendations must include supporting documentation concerning the environmental, economic, and social impacts of the recommendations. We are responsible for reviewing these recommendations to ensure that they achieve the FMP objectives and are consistent with all applicable laws, and may modify them if they do not. Following review, NMFS publishes the final specifications in the **Federal Register**.

In January 2014, the 58th Northeast Stock Assessment Workshop (SAW) declared the golden tilefish stock rebuilt and concluded that overfishing is not occurring. A stock assessment update with data through 2016 is currently in development, but the 58th SAW is still the most up to date and best available science for the Council to use in its decision-making on these golden tilefish specifications. Based on this report, and the ABC recommendations made by the Council's SSC, the Council took final action April 2017 on 2018–2020 quota specifications for the golden tilefish fishery, and submitted its recommended specifications to us on July 5, 2017. A summary of the Council's recommended specifications is shown below in Table 1.

Proposed Specifications

The Council's recommendations are consistent with the SSC's recommended ABCs, and represent a reduction in ABC and overall commercial quota from 2017 to ensure overfishing does not occur. The proposed IFQ quota of 1,554,038 lb (705 mt) is a 13-percent reduction from 2017, and the incidental quota of 72,397 lb (33 mt) is a 23-percent reduction. The proposed incidental sector typically lands less than half of its allocated quota each year, so this larger reduction is unlikely to have a significant impact. As golden tilefish are not overfished or experiencing overfishing, the reduction in the quotas is a result of the SSC applying the Council's risk policy to the most recent assessment outputs to derive its ABC recommendation.

TABLE 1—SUMMARY OF RECOMMENDED GOLDEN TILEFISH SPECIFICATIONS

	2018		2019		2020	
	million lb	mt	million lb	mt	million lb	mt
Overfishing Limit	2.332	1,058	2.421	1,098	2.291	1,039
ABC	1.636	742	1.636	742	1.636	742
ACL	1.636	742	1.636	742	1.636	742
IFQ ACT	1.554	705	1.554	705	1.554	705
Incidental ACT	0.082	37	0.082	37	0.082	37
IFQ TAL	1.554	705	1.554	705	1.554	705
Incidental TAL	0.072	33	0.072	33	0.072	33
IFQ Quota	1.554	705	1.554	705	1.554	705
Incidental Quota	0.072	33	0.072	33	0.072	33

As in recent years, the Council recommended ABC=ACL=ACT. The TAL is derived by deducting anticipated discards of tilefish from the ACT. Under the FMP, 95 percent of the TAL is allocated for the IFQ fishery, and the remaining 5 percent is allocated for the incidental fishery. Prior to 2018, ACTs and TALs were specified at the overall commercial level, with the IFQ fishery and incidental fishery combined. Framework Adjustment 2 to the Tilefish FMP is being developed concurrently with these specifications, and modifies this system to allow discards to be deducted from the specific component of the commercial sector (IFQ fishery or incidental fishery) where they were generated. The Council made recommendations based on the new process being developed under Framework 2, so that IFQ and incidental specific category discards are used, allowing for more specific adjustments to the commercial sector. This also divides the ACT and TAL between IFQ and incidental categories within the specifications. Framework 2 is still in development, and a proposed rule outlining the new measures is expected soon. Because Framework 2 will be implemented before this action is finalized, we are proposing to use the Framework 2 measures for the 2018–2020 specifications.

The golden tilefish industry strongly supports consistency in annual harvest quotas, and has operated under a constant landings strategy since 2001. Continuing this strategy, the Council opted to recommend the same quota for the 2018–2020 period, with the understanding that the specifications will be reviewed on an annual basis. We are proposing the 2018 specifications along with the projected specifications for 2019 and 2020 so that the public is aware of the likely values for those years. We will publish a notice in the **Federal Register** prior to each fishing year to confirm or announce any necessary changes to the specifications for 2019 and 2020. The Council did not recommend changes to other regulations for this fishery. We propose, based on this recommendation, that all other management measures in the golden tilefish fishery will remain unchanged for the 2018–2020 fishing years. The incidental trip limit will stay 500 lb (226.8 kg) (live weight), and the recreational catch limit will remain eight fish per angler per trip. Annual IFQ allocations will be issued to individual quota shareholders in mid-October, ahead of the November 1 start of the fishing year.

Classification

Pursuant to section 304(b)(1)(A) of the Magnuson Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act), the NMFS Assistant Administrator has determined that this proposed rule is consistent with the Tilefish FMP, other provisions of the Magnuson-Stevens Act, and other applicable law, subject to further consideration after public comment.

This proposed rule is exempt from the procedures of E.O. 12866 because this action contains no implementing regulations.

The Council prepared a draft EA for this action that analyzes the impacts of this proposed rule. The EA includes an initial regulatory flexibility analysis (IRFA), as required by section 603 of the Regulatory Flexibility Act (RFA), which is supplemented by information contained in the preamble of this proposed rule. The IRFA was prepared to further evaluate the economic impacts of the various alternatives presented in this document on small business entities. A description of the specifications, why they are being considered, and the legal basis for this action are contained at the beginning of this section and in the preamble to this proposed rule. A copy of the detailed RFA analysis is available from the Council (see **ADDRESSES**). A summary of the 2018–2020 golden tilefish specifications RFA analysis follows.

Description of the Reasons Why Action Is Being Considered

This action proposes management measures, including annual catch limits and commercial quotas, for the 2018–2020 golden tilefish fishery. The measures are consistent with the best scientific information available and the

most recent catch limit recommendations of the Council's SSC to prevent overfishing and achieve optimum yield in the fishery. The golden tilefish fishery successfully functions under an IFQ management program, which provides substantial benefits to fishery participants, and requires the annual specification of quotas. Another critical function of this action is to prevent overfishing and obtain the optimal yield, as mentioned earlier.

Statement of the Objectives of, and Legal Basis for, This Proposed Rule

This action is taken under the authority of the Magnuson-Stevens Act and regulations at 50 CFR part 648. A complete description of the action, why it is being considered, and the legal basis for this action are contained in the specifications document, and elsewhere in the preamble to this proposed rule, and are not repeated here.

Description and Estimate of the Number of Small Entities to Which This Proposed Rule Would Apply

This proposed rule affects small entities engaged in commercial fishing operations with Federal tilefish permits. For the purposes of the RFA analysis, the ownership entities (or firms), not the individual vessels, are considered to be the regulated entities. Ownership entities are defined as those entities or firms with common ownership personnel as listed on the permit application. Because of this, some vessels with golden tilefish permits may be considered to be part of the same firm because they may have the same owners. To identify these small and large firms, vessel ownership data from the permit database were grouped according to common owners and sorted by size. In terms of RFA, a business primarily engaged in commercial fishing is classified as a small business if it has combined annual receipts not in excess of $11 million, for all its affiliated operations worldwide. The current ownership data set used for this analysis is based on calendar year 2016 (the most recent complete year available) and contains average gross sales associated with those permits for calendar years 2014 through 2016. According to the commercial ownership database, 148 affiliate firms landed golden tilefish during the 2014–2016 period, with 145 of those business affiliates categorized as small business and three categorized as large business.

Description of the Projected Reporting, Record-Keeping, and Other Compliance Requirements of This Proposed Rule

There are no new reporting or recordkeeping requirements contained in any of the alternatives considered for this action.

Federal Rules Which May Duplicate, Overlap, or Conflict With This Proposed Rule

NMFS is not aware of any relevant Federal rules that may duplicate, overlap, or conflict with this proposed rule.

Description of Significant Alternatives to the Proposed Action Which Accomplish the Stated Objectives of Applicable Statutes and Which Minimize Any Significant Economic Impact on Small Entities

This action proposes to set a commercial golden tilefish quota of 1.626 million lb (738 mt)—1.554 million lb (705 mt) of IFQ, 72,397 lb (33 mt) of incidental—for 2018–2020. Under this preferred alternative (Alternative 1), it is expected that the overall revenue reduction would be less than one percent for the approximately 145 small entities impacted by the decrease in golden tilefish quota when compared to average revenues generated during the 2014–2016 period. There is the possibility of an increase in the price for golden tilefish given the potential decrease in landings, which could mitigate some of the revenue loss associated with lower quotas, but is not guaranteed. Industry members have indicated that having consistent quota levels from year to year is favorable, and translates into price and supply stability in the fishery.

There were two alternatives (Alternative 2 and Alternative 3) to the proposed action (Alternative 1) considered by the Council. Alternative 2 is the status quo alternative, and maintains the previous year's commercial quotas of 1.793 million lb (813 mt) for the IFQ fishery and 94,357 lb (43 mt) for the incidental fishery (total commercial quota of 1.887 million lb or 856 mt). Under this alternative, commercial landings and revenues for golden tilefish would be expected to be the same relative to 2017.

Alternative 3 would set 2018–2020 commercial golden tilefish quotas at 1.505 million lb (683 mt), 1.717 million lb (779 mt), and 1.657 million lb (752 mt), respectively. While they represent similar overall quota reductions over the three-year period, Alternative 3 is non-preferred to Alternative 1 because of its inconsistency in the annual quotas, which could lead to instability in pricing and supply in the fishery.

The Council recommended these proposed specifications (Alternative 1) over Alternatives 2 and 3 to satisfy the Magnuson-Stevens Act requirements to ensure fish stocks are not subject to overfishing, while allowing quota stability, which the tilefish industry considers important in order to promote stability in price and supply in the marketplace. Alternative 2 was not recommended by the Council because it would exceed the catch level recommendations of the Council's SSC, and would be inconsistent with the requirements of the Magnuson-Stevens Act. Alternative 3 was not selected because it would not support the consistency of quota/landings from year to year that the tilefish industry considers important to maintaining price and supply stability in this fishery. NMFS agrees with the Council's IRFA analysis and rationale for recommending these catch limits. As such, NMFS is proposing to implement the Council's preferred ABCs, ACLs, ACTs, and commercial quotas, as presented in Table 1 of this proposed rule's preamble.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: August 31, 2017.

Samuel D. Rauch III,

Deputy Assistant Administrator for Regulatory Programs, National Marine Fisheries Service.

[FR Doc. 2017–18958 Filed 9–6–17; 8:45 am]

BILLING CODE 3510–22–P

Notices

Federal Register
Vol. 82, No. 172
Thursday, September 7, 2017

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Forest Service

Olympic Peninsula Resource Advisory Committee

AGENCY: Forest Service, USDA.

ACTION: Notice of meeting.

SUMMARY: The Olympic Peninsula Resource Advisory Committee (RAC) will meet in Forks, Washington. The committee is authorized under the Secure Rural Schools and Community Self-Determination Act (the Act) and operates in compliance with the Federal Advisory Committee Act. The purpose of the committee is to improve collaborative relationships and to provide advice and recommendations to the Forest Service concerning projects and funding consistent with the Act. RAC information can be found at the following Web site: *http://www.fs.usda.gov/main/olympic/workingtogether/advisorycommittees.*

DATES: The meeting will be held on September 26, 2017, from 9:00 a.m. to 5:00 p.m.

All RAC meetings are subject to cancellation. For status of meeting prior to attendance, please contact the person listed under **FOR FURTHER INFORMATION CONTACT**.

ADDRESSES: The meeting will be held at the Rainforest Art Center, 35 North Forks Avenue, Forks, Washington.

Written comments may be submitted as described under **SUPPLEMENTARY INFORMATION.** All comments, including names and addresses when provided, are placed in the record and are available for public inspection and copying. The public may inspect comments received at the Olympic National Forest (NF) Supervisor's Office. Please call ahead to facilitate entry into the building.

FOR FURTHER INFORMATION CONTACT: Susan Piper, RAC Coordinator, by phone at 360–956–2435 or via email at *spiper@fs.fed.us.*

Individuals who use telecommunication devices for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8:00 a.m. and 8:00 p.m., Eastern Standard Time, Monday through Friday.

SUPPLEMENTARY INFORMATION: The purpose of the meeting is to:

1. Review project proposals; and
2. Make recommendations for Title II funds.

The meeting is open to the public. The agenda will include time for people to make oral statements of three minutes or less. Individuals wishing to make an oral statement should request in writing by September 16, 2017, to be scheduled on the agenda. Anyone who would like to bring related matters to the attention of the committee may file written statements with the committee staff before or after the meeting. Written comments and requests for time to make oral comments must be sent to Susan Piper, RAC Coordinator, Olympic National Forest, 1835 Black Lake Boulevard Southwest, Olympia, Washington 98512; by email to *spiper@fs.fed.us,* or via facsimile to 360–956–2330.

Meeting Accommodations: If you are a person requiring reasonable accommodation, please make requests in advance for sign language interpreting, assistive listening devices, or other reasonable accommodation. For access to the facility or proceedings, please contact the person listed in the section titled **FOR FURTHER INFORMATION CONTACT**. All reasonable accommodation requests are managed on a case by case basis.

Dated: July 17, 2017.

Jeanne M. Higgins,

Acting Associate Deputy Chief, National Forest System.

[FR Doc. 2017–18944 Filed 9–6–17; 8:45 am]

BILLING CODE 3411–15–P

DEPARTMENT OF AGRICULTURE

Forest Service

Huron-Manistee Resource Advisory Committee

AGENCY: Forest Service, USDA.

ACTION: Notice of meeting.

SUMMARY: The Huron-Manistee Resource Advisory Committee (RAC) will meet in Mio, Michigan. The RAC is authorized under the Secure Rural Schools and Community Self-Determination Act (the Act) and operates in compliance with the Federal Advisory Committee Act. The purpose of the RAC is to improve collaborative relationships and to provide advice and recommendations to the Forest Service concerning projects and funding consistent with the Act.

DATES: The meeting will be held on September 19, 2017, from 6:30 p.m.–9:30 p.m. All RAC meetings are subject to cancellation. For status of meeting prior to attendance, please contact the person listed under **FOR FURTHER INFORMATION CONTACT.**

ADDRESSES: The meeting will be held at the Mio Ranger District, 107 McKinley Road, Mio, Michigan, 48647. Participants who would like to attend by teleconference or by video conference, please contact the person listed under **FOR FURTHER INFORMATION CONTACT.**

Written comments may be submitted as described under **SUPPLEMENTARY INFORMATION.** All comments, including names and addresses when provided, are placed in the record and are available for public inspection and copying. The public may inspect comments received at the Mio Ranger District. Please call ahead to facilitate entry into the building.

FOR FURTHER INFORMATION CONTACT: Brad Bolton, Designated Federal Officer, by phone at 989–826–3252 or via email at *blbolton@fs.fed.us.*

Individuals who use telecommunication devices for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8:00 a.m. and 8:00 p.m., Eastern Standard Time, Monday through Friday.

SUPPLEMENTARY INFORMATION: The purpose of the meeting is to:

1. Review and adopt meeting minutes from previous meeting,
2. Review process' for recommending and considering Title II projects,
3. Review proposed projects,
4. Identify next steps, and
5. Allow for pubic comment.

The meeting is open to the public. The agenda will include time for people to make oral statements of three minutes or less. Individuals wishing to make an

oral statement should request in writing by September 12, 2017, to be scheduled on the agenda. Anyone who would like to bring related matters to the attention of the committee may file written statements with the committee staff before or after the meeting. Written comments and requests for time to make oral comments must be sent to Brad Bolton, Designated Federal Officer, 107 McKinley Road, Mio, Michigan 48647; by email to *blbolton@fs.fed.us,* or via facsimile to 989–826–6073.

Meeting Accommodations: If you are a person requiring reasonable accommodation, please make requests in advance for sign language interpreting, assistive listening devices, or other reasonable accommodation. For access to the facility or proceedings, please contact the person listed in the section titled **FOR FURTHER INFORMATION CONTACT.** All reasonable accommodation requests are managed on a case by case basis.

Dated: July 5, 2017.

Glenn Casamassa,

Associate Deputy Chief, National Forest System.

[FR Doc. 2017–18949 Filed 9–6–17; 8:45 am]

BILLING CODE 3411–15–P

DEPARTMENT OF AGRICULTURE

Forest Service

Nevada and Placer Counties Resource Advisory Committee

AGENCY: Forest Service, USDA.

ACTION: Notice of meeting.

SUMMARY: The Nevada and Placer Counties Resource Advisory Committee (RAC) will meet in Truckee, California. The committee is authorized under the Secure Rural Schools and Community Self-Determination Act of 2000 (the Act) as reauthorized by Public Law 114–10 and operates in compliance with the Federal Advisory Committee Act. The purpose of the committee is to improve collaborative relationships and to provide advice and recommendations to the Forest Service concerning projects and funding consistent with Title II of the Act. RAC information can be found at the following Web site: *http://cloudapps-usda-gov.force.com/FSSRS/RAC_Page?id=001t0000002JcwUAAS.*

DATES: The meeting will be held on Monday, September 25, 2017, at 9:00 a.m.

All RAC meetings are subject to cancellation. For status of meeting prior to attendance, please contact the person listed under **FOR FURTHER INFORMATION CONTACT.**

ADDRESSES: The meeting will be held at the Truckee Ranger Station, Conference Room, 10811 Stockrest Springs Road, Truckee, California.

Written comments may be submitted as described under **SUPPLEMENTARY INFORMATION.** All comments, including names and addresses when provided, are placed in the record and are available for public inspection and copying. The public may inspect comments received at Truckee Ranger Station.

FOR FURTHER INFORMATION CONTACT: Michael Woodbridge, RAC Coordinator, by phone at 530–478–6205 or via email at *mjwoodbridge@fs.fed.us.*

Individuals who use telecommunication devices for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8:00 a.m. and 8:00 p.m., Eastern Standard Time, Monday through Friday.

SUPPLEMENTARY INFORMATION: The purpose of the meeting is to:

1. Welcome and oriententation of members,
2. Federal Advisory Committee Act overview,
3. Development of project ranking citeria and voting process,
4. Elect a RAC chairperson,
5. Project proponent presentations, and
6. Review and selection of project proposals.

The meeting is open to the public. The agenda will include time for people to make oral statements of three minutes or less. Individuals wishing to make an oral statement should submit a request in writing at least one week prior to the meeting to be scheduled on the agenda. Anyone who would like to bring related matters to the attention of the committee may file written statements with the committee staff before or after the meeting. Written comments and requests for time to make oral comments must be sent to Michael Woodbridge, RAC Coordinator, 631 Coyote Street, Nevada City, California 95959; by email to *mjwoodbridge@fs.fed.us,* or via facsimile to 530–478–6109.

Meeting Accommodations: If you are a person requiring reasonable accommodation, please make requests in advance for sign language interpreting, assistive listening devices, or other reasonable accommodation. For access to the facility or proceedings, please contact the person listed in the section titled **FOR FURTHER INFORMATION CONTACT.** All reasonable accommodation requests are managed on a case by case basis.

Dated: July 17, 2017.

Jeanne M. Higgins,

Acting Associate Deputy Chief, National Forest System.

[FR Doc. 2017–18948 Filed 9–6–17; 8:45 am]

BILLING CODE 3411–15–P

DEPARTMENT OF AGRICULTURE

National Institute of Food and Agriculture

Solicitation of Veterinary Shortage Situation Nominations for the Veterinary Medicine Loan Repayment Program (VMLRP)

AGENCY: National Institute of Food and Agriculture, USDA.

ACTION: Notice and solicitation for nominations.

SUMMARY: The National Institute of Food and Agriculture (NIFA) is soliciting nominations of veterinary service shortage situations for the Veterinary Medicine Loan Repayment Program (VMLRP) for fiscal year (FY) 2018, as authorized under the National Veterinary Medical Services Act (NVMSA). This notice initiates the nomination period and prescribes the procedures and criteria to be used by eligible nominating officials (State, Insular Area, DC and Federal Lands) to nominate veterinary shortage situations.

Each year all eligible nominating officials may submit nominations, up to the maximum indicated for each entity in this notice. NIFA is conducting this solicitation of veterinary shortage situation nominations under an approved information collection (OMB Control Number 0524–0050).

DATES: Shortage situation nominations must be submitted on or before October 20, 2017.

ADDRESSES: Submissions must be made by clicking the submit button on the Veterinarian Shortage Situation nomination form provided in the VMLRP Shortage Situations section of the NIFA Web site at *www.nifa.usda.gov/vmlrp.*

This form is sent as a data file directly to the Veterinary Medicine Loan Repayment Program; National Institute of Food and Agriculture; U.S. Department of Agriculture.

FOR FURTHER INFORMATION CONTACT: Mark Robinson; National Program Leader; National Institute of Food and Agriculture; U.S. Department of Agriculture; Stop 2240; 1400 Independence Avenue SW.; Washington, DC 20250–2220; Voice: 202–401–1990; Fax: 202–401–6156; Email: *vmlrp@nifa.usda.gov.*

SUPPLEMENTARY INFORMATION:

Background and Purpose

Food supply veterinary medicine embraces a broad array of veterinary professional activities, specialties and responsibilities, and is defined as all aspects of veterinary medicine's involvement in food supply systems, from traditional agricultural production to consumption. A series of studies and reports [1] [2] [3] [4] [5] [6] have drawn attention to maldistributions in the veterinary workforce leaving some communities, especially rural areas, with insufficient access to food supply veterinary services.

Two programs, born out of this concern, aim to mitigate the maldistribution of the veterinary workforce: The Veterinary Medicine Loan Repayment Program (VMLRP) and Veterinary Services Grant Program (VSGP), both administered by USDA–NIFA. VMLRP addresses increasing veterinary school debt by offering veterinary school debt payments in exchange for service in shortage situations, while VSGP addresses other factors contributing to the maldistribution of veterinarians serving the agricultural sector. Specifically, the VSGP promotes availability and access to (1) specialized education and training which will enable veterinarians and veterinary technicians to provide services in designated veterinarian shortage situations, and (2) practice-enhancing equipment and personnel resources to enable veterinary practices to expand or improve access to veterinary services.

Paperwork Reduction Act

In accordance with the Office of Management and Budget (OMB) regulations (5 CFR part 1320) that implement the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the information collection and recordkeeping requirements imposed by the implementation of these guidelines have been approved by OMB Control Number 0524–0050.

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Guidelines for Veterinary Shortage Situation Nominations

I. Preface and Authority

In January 2003, the National Veterinary Medical Service Act (NVMSA) was passed into law adding section 1415A to the National Agricultural Research, Extension, and Teaching Policy Act of 1997 (NARETPA). This law established a new Veterinary Medicine Loan Repayment Program (7 U.S.C. 3151a) authorizing the Secretary of Agriculture to carry out a program of entering into agreements with veterinarians under which they agree to provide veterinary services in veterinarian shortage situations. In FY 2010, NIFA announced the first funding opportunity for the VMLRP.

Section 7104 of the 2014 Farm Bill (Pub. L. 113–79) added section 1415B to NARETPA, as amended, (7 U.S.C. 3151b) to establish the Veterinary Services Grant Program (VSGP). This amendment authorizes the Secretary of Agriculture to make competitive grants to qualified entities and individual veterinarians that carry out programs in veterinarian shortage situations and for the purpose of developing, implementing, and sustaining veterinary services. Funding for the VSGP was first appropriated in FY 2016 through the Consolidated Appropriations Act, 2016 (Pub. L. 114–113).

Pursuant to the requirements enacted in the NVMSA of 2004 (as revised), and the implementing regulation for this Act, part 3431 subpart A of the VMLRP Final Rule [75 FR 20239–20248], NIFA hereby implements guidelines for eligible nominating officials to nominate veterinary shortage situations for the FY 2018 program cycle.

II. Nomination of Veterinary Shortage Situations

A. General

1. Eligible Shortage Situations

Section 1415A of NARETPA, as amended and revised by section 7105 of the Food, Conservation and Energy Act, directs determination of veterinarian shortage situations for the VMLRP to consider (1) geographical areas that the Secretary determines have a shortage of veterinarians; and (2) areas of veterinary practice that the Secretary determines have a shortage of veterinarians, such as food animal medicine, public health, epidemiology, and food safety. This section also added that priority should be given to agreements with veterinarians for the practice of food animal medicine in veterinarian shortage situations.

While the NVMSA (as amended) specifies priority be given to food animal medicine shortage situations, and that consideration also be given to specialty areas such as public health, epidemiology and food safety, the Act does not identify any areas of veterinary practice as ineligible. Accordingly, all nominated veterinary shortage situations will be considered eligible for submission.

A subset of the shortages designated for VMLRP applicants are also available to satisfy requirements, as applicable, for VSGP applicants. In addition, a shortage situation under the VSGP must also be designated rural as defined in section 343(a) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1991(a)).

Nominations describing either public or private practice veterinary shortage situations are eligible for submission.

2. State Respondents and Use of Consultation

The only authorized respondent on behalf of each State is the chief State Animal Health Official (SAHO), as duly authorized by the Governor or the Governor's designee in each State. The eligible nominating official must submit nominations using the instructions provided in section A.4, FY 2018 Shortage Situation Nomination Process. NIFA strongly encourages the SAHO to involve leading health animal experts in the State in the identification and prioritization of shortage situation nominations.

[1] Government Accountability Office, Veterinary Workforce: Actions Are Needed to Ensure Sufficient Capacity for Protecting Public and Animal Health, GAO–09–178: Feb 18, 2009).

[2] National Academies of Science, Workforce Needs in Veterinary Medicine, 2013.

[3] Andrus DM, Gwinner KP, Prince, JB. Food Supply Veterinary Medicine Coalition Report: Estimating FSM Demand and Maintaining the Availability of Veterinarians in Food Supply Related Disciplines in the United States and Canada, 2016. *https://www.avma.org/KB/Resources/Reference/Pages/Food-Supply-Veterinary-Medicine-Coalition-Report.aspx*.

[4] Andrus DM, Gwinner KP, Prince, JB. Future demand, probable shortages and strategies for creating a better future in food supply veterinary medicine. 2006, JAVMA 229(1):57–69.

[5] Andrus DM, Gwinner KP, Prince, JB. Attracting students to careers in food supply veterinary medicine. 2006, JAVMA 228(1):16931704.

[6] Andrus DM, Gwinner KP, Prince, JB. Job satisfaction, changes in occupational area and commitment to a career in food supply veterinary medicine. 2006, JAVMA 228(12):1884–1893.

3. State Allocation of Nominations

NIFA will accept the number of nominations equivalent to the maximum number of designated shortage areas for each State. For historical background and more information on the rationale for capping nominations and State allocation method, visit *https://nifa.usda.gov/vmlrp-nomination-and-designation-veterinary-shortage-situations*.

The maximum number of nominations (and potential designations) is based on data from the 2012 Agricultural Census conducted by the USDA National Agricultural Statistics Service (NASS). Awards from previous years have no bearing on a State's maximum number of allowable shortage nomination submissions or designations in any given year, or number of nominations or designations allowed for subsequent years. NIFA reserves the right in the future to proportionally adjust the maximum number of designated shortage situations per State to ensure a balance between available funds and the requirement to ensure that priority is given to mitigating veterinary shortages corresponding to situations of greatest need. Nomination Allocation tables for FY 2018 are available under the VMLRP Shortage Situations section of the VMLRP Web site at *https://nifa.usda.gov/resource/vmlrp-shortage-allocations*.

Table I lists the maximum nomination allocations by State. Table II lists ''Special Consideration Areas'' which include any State or Insular Area not reporting data to NASS, reporting less than $1,000,000 in annual Livestock and Livestock Products Total Sales ($), and/or possessing less than 500,000 acres. One nomination is allocated to any State or Insular Area classified as a Special Consideration Area.

Table III shows the values and quartile ranks of States for two variables broadly correlated with demand for food supply veterinary services: ''Livestock and Livestock Products Total Sales ($)'' (LPTS) and ''Land Area (acres)'' (LA). The maximum number of NIFA-designated shortage situations per State is based on the sum of quartile rankings for LPTS and LA for each State and can be found in Table IV.

While Federal Lands are widely dispersed within States and Insular Areas across the country, they constitute a composite total land area over twice the size of Alaska. If the 200-mile limit U.S. coastal waters and associated fishery areas are included, Federal Land total acreage would exceed 1 billion. Both State and Federal Animal Health officials have responsibilities for matters relating to terrestrial and aquatic food animal health on Federal Lands. Interaction between wildlife and domestic livestock, such as sheep and cattle, is particularly common in the plains States where significant portions of Federal lands are leased for grazing. Therefore, both SAHOs and the Chief Federal Animal Health Officer (Deputy Administrator of the Animal and Plant Health Inspection Service or designee) may submit nominations to address shortage situations on or related to Federal Lands.

NIFA emphasizes that the shortage nomination allocation is set to broadly balance the number of designated shortage situations across States prior to the nomination and award phases of the VMLRP and VSGP. Awards will be made based strictly on the peer review panels' assessment according to each program's review criteria; thus no State will be given a preference for placement of awardees. Additionally, each designated shortage situation will be limited to one award per program.

4. FY 2018 Shortage Situation Nomination Process

For the FY 2018 program cycle, all eligible nominating officials submitting may: (1) Request to retain designated status for any shortage situation successfully designated in FY 2017 and/or (2) submit new nominations. Any shortage from FY 2017 not retained or submitted as a new nomination will not be considered a shortage situation in FY 2018. The total number of new nominations plus designated nominations retained (carried over) may not exceed the maximum number of nominations each eligible nominating official is permitted.

The following process is the mechanism for retaining a designated nomination: Each SAHO should review the map of VMLRP designated shortage situations for FY 2017 (*https://go.usa.gov/xRP2U*) and download a PDF copy of the nomination form for each designated area that remains open (not awarded) in FY 2017. If the SAHO wishes to retain (carry over) one or more designated nomination(s), the SAHO shall copy and paste the prior year information into the current year's nomination form and select ''SUBMIT''.

Both new and retained nominations must be submitted on the Veterinary Shortage Situation Nomination form provided in the VMLRP Shortage Situations section at *https://nifa.usda.gov/vmlrp-shortage-situations*.

Nominations retained (carried over) will be designated without review unless major changes in content are identified during administrative processing or the shortage has been retained for three years. Major changes in content or shortages already retained for three consecutive years will be treated as new submissions and undergo merit review.

5. Submission and Due Date

Submissions must be made by clicking the submit button on the Veterinarian Shortage Situation nomination form provided in the VMLRP Shortage Situations section at *https://nifa.usda.gov/vmlrp-shortage-situations*.

This form is sent as a data file directly to the Veterinary Medicine Loan Repayment Program; National Institute of Food and Agriculture; U.S. Department of Agriculture; Shortage situation nominations. Both new and retained (carry-over) nominations must be submitted on or before October 20, 2017.

6. Period Covered

Each shortage situation is approved for one program year cycle only. However, any previously approved shortage situation not filled in a given program year may be resubmitted as a retained (carry-over) nomination. Retained (carry-over) shortage nominations (without any revisions) will be automatically approved for up to three years before requiring another merit review. By resubmitting a carry-over nomination, the SAHO is affirming that in his or her professional judgment the original case made for shortage status, and the original description of needs, remain current and accurate.

7. Definitions

For the purpose of implementing the solicitation for veterinary shortage situations, the definitions provided in 7 CFR part 3431 are applicable.

B. Nomination Form

The VMLRP Shortage Nomination Form must be used to nominate veterinarian shortage situations. Once designated as a shortage situation, VMLRP applicants will use the information to select shortage situations they are willing and qualified to fill, and to guide the preparation of their applications. NIFA will use the information to assess contractual compliance of awardees. The form is available in the VMLRP Shortage Situations section at *https://nifa.usda.gov/vmlrp-shortage-situations*. See Part II A. 5. for submission information. Detailed directions for each field can be found at *https://nifa.usda.gov/resource/vmlrp-*

veterinarian-shortage-situation-nomination-form-form-nifa-2009-0001.

C. NIFA Review of Shortage Situation Nominations

1. Review Panel Composition and Process

NIFA will convene a panel of food supply veterinary medicine experts from Federal and State agencies, as well as institutions receiving Animal Health and Disease Research Program funds under section 1433 of NARETPA, to review the nominations and make recommendations to the NIFA Program Manager. NIFA will review the panel's recommendations and designate the VMLRP shortage situations. The list of approved shortage situations will be made available on the VMLRP Web site at *www.nifa.usda.gov/vmlrp*.

2. Review Criteria

Criteria used by the shortage situation nomination review panel and NIFA for certifying a veterinary shortage situation will be consistent with the information requested in the shortage situations nomination form. NIFA understands the process for defining the risk landscape associated veterinary service shortages within a State may require consideration of many qualitative and quantitative factors. In addition, each shortage situation will be characterized by a different array of subjective and objective supportive information that must be developed into a cogent case identifying, characterizing, and justifying a given geographic or disciplinary area as deficient in certain types of veterinary capacity or service. To accommodate the uniqueness of each shortage situation, the nomination form provides opportunities to present a case using both supportive metrics and narrative explanations to define and explain the proposed need.

While NIFA anticipates some arguments made in support of a given shortage situation will be qualitative, respondents are encouraged to present verifiable quantitative and qualitative evidentiary information wherever possible. Absence of quantitative data such as animal and veterinarian census data for the proposed shortage area(s) may lead the panel to recommend disapproval of the shortage nomination.

The maximum point value that panelists may award for each element is as follows:

20 points: Describe the objectives of a veterinarian to meet the needs of the shortage situation in the community, area, State/insular area, or position requested above.

20 points: Describe the activities required of a veterinarian to meet the needs of the shortage situation located in the community, area, State/insular area, or position requested above.

5 points: Describe any past efforts to recruit and retain a veterinarian to achieve the objectives and activities in the shortage situation identified above.

35 points: Describe the risk of this veterinarian position not being filled or retained. Include the risk(s) to the production of a safe and wholesome food supply and/or to animal, human, and environmental health not only in the community but in the region, State/insular area, nation, and/or international community.

An additional 20 points will be used to evaluate overall merit/quality of the case made for each nomination.

Done in Washington, DC, this day of August 31, 2017.

Robert Holland,

Associate Director for Operations, National Institute of Food and Agriculture.

[FR Doc. 2017–18927 Filed 9–6–17; 8:45 am]

BILLING CODE P

DEPARTMENT OF AGRICULTURE

Rural Housing Service

Notice of Request for Extension of a Currently Approved Information Collection

AGENCY: Rural Housing Service, USDA.

ACTION: Proposed collection; comments requested.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, this notice announces the Rural Housing Service's intention to request an extension for a currently approved information collection in support of the program for Fire and Rescue Loans.

DATES: Comments on this notice must be received by November 6, 2017 to be assured of consideration.

FOR FURTHER INFORMATION CONTACT: Anita Outen, Community Programs Division, RHS, U.S. Department of Agriculture, Stop 0787, 1400 Independence Avenue SW., Washington, DC 20250–0787. Telephone (202) 690–5273.

SUPPLEMENTARY INFORMATION:

Title: Fire and Rescue Loans.

OMB Number: 0575–0120.

Expiration Date of Approval: January 31, 2018.

Type of Request: Extension of a currently approved information collection.

Abstract: The Fire and Rescue Loan program is authorized by Section 306 of the Consolidated Farm and Rural Development Act (7 U.S.C. 1926) to make loans to public entities, nonprofit corporations, and Indian tribes for the development of community facilities for public use in rural areas and is covered by 7 CFR 1942–C. The primary regulation for administering the Community Facilities program is 7 CFR 1942–A (OMB Number 0575–0015) that outlines eligibility, project feasibility, security, and monitoring requirements.

The Community Facilities fire and rescue program has been in existence for many years. This program has financed a wide range of fire and rescue projects varying in size and complexity from construction of a fire station with fire fighting and rescue equipment to financing a 911 emergency system. These facilities are designed to provide fire protection and emergency rescue services to rural communities.

Information will be collected by the field offices from applicants, borrowers, and consultants. This information will be used to determine applicant/borrower eligibility, project feasibility, and to ensure borrowers operate on a sound basis and use funds for authorized purposes. Failure to collect proper information could result in improper determination of eligibility, improper use of funds, and/or unsound loans.

Estimate of Burden: Public reporting burden for this collection of information is estimated to average 2.15 hours per response.

Respondents: Not-for-profit institutions, State, local, or tribal governments.

Estimated Number of Respondents: 2,970.

Estimated Number of Responses per Respondent: 4.06.

Estimated Number of Responses: 12,058.

Estimated Total Annual Burden on Respondents: 25,925 hours.

Copies of this information collection can be obtained from Jeanne Jacobs, Regulations and Paperwork Management Branch, (202) 692–0040.

Comments

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the Rural Housing Service (RHS), including whether the information will have practical utility; (b) the accuracy of RHS' estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on those who are to respond, including

through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology. Comments may be sent to Jeanne Jacobs, Regulations and Paperwork Management Branch, U.S. Department of Agriculture, Rural Development, STOP 0742, 1400 Independence Ave. SW., Washington, DC 20250. All responses to this notice will be summarized and included in the request for OMB approval. All comments will also become a matter of public record.

Dated: August 31, 2017.

Richard A. Davis,

Acting Administrator, Rural Housing Service.

[FR Doc. 2017–18883 Filed 9–6–17; 8:45 am]

BILLING CODE 3410–XV–P

AMERICAN BATTLE MONUMENTS COMMISSION

Privacy Act of 1974; System of Records

AGENCY: American Battle Monuments Commission.

ACTION: Notice of a New System of Records.

SUMMARY: Pursuant to the Privacy Act of 1974, as amended, the American Battle Monuments Commission establishes a new system of records titled, ''ABMC–6, Personnel and Payroll System''. This system allows the American Battle Monuments Commission to ensure proper payment for salary and benefits, and to track time worked, leave, or other absences for reporting and compliance purposes. Once this notice and the associated routine uses go into effect, the American Battle Monuments Commission will rescind two previously published system of records notices, ''ABMC–1, Official Personnel Records'', and ''ABMC–2, General Financial Records'', as the related records will be maintained under this newly established system of records.

DATES: In accordance with 5 U.S.C. 552a(e)(4) and (11), this system of records notice is effective upon publication, with the exception of the routine uses, which will go into effect 30 days after publication of this notice, on September 7, 2017, unless comments have been received from interested members of the public requiring modification and republication of the notice. Please submit any comments by October 10, 2017.

ADDRESSES: Any person interested in commenting on the establishment of this new system of records may do so by: Submitting comments in writing to Jamilyn Smyser, Program Management Officer, American Battle Monuments Commission, 2300 Clarendon Boulevard, Suite 500, Arlington, Virginia 22201; or emailing comments to *privacy@abmc.gov.*

FOR FURTHER INFORMATION CONTACT: Senior Agency Official for Privacy, American Battle Monuments Commission, 2300 Clarendon Boulevard, Suite 500, Arlington, VA 22201; or by telephone at 703–696–6900.

SUPPLEMENTARY INFORMATION:

I. Background

The American Battle Monuments Commission (ABMC) builds and maintains suitable memorials commemorating the service of American Armed Forces and maintains permanent American military cemeteries in foreign countries. ABMC employs U.S. citizens, lawful permanent residents, and non-U.S. citizens or nationals from foreign countries. ABMC maintains the ABMC–6, Personnel and Payroll System, to manage payroll and personnel data for ABMC employees, ensure proper payment of salary and benefits to ABMC personnel, and track time worked and leave or other absences for reporting and compliance purposes. ABMC is publishing this new system of records notice to reflect updates to ABMC payroll and personnel data processes and services.

ABMC has entered into an agreement with the Department of the Interior (DOI) Interior Business Center (IBC), a Federal agency shared service provider, to provide payroll and personnel processing services through DOI's Federal Personnel and Payroll System (FPPS). Although DOI will host and process payroll and personnel data on behalf of ABMC, ABMC will retain ownership and control over its own data. ABMC has included a routine use in this notice to permit sharing of records with DOI for hosting and support services. Individuals seeking access to their records owned and maintained by ABMC must submit their requests to ABMC as outlined in the Record Access Procedures, Contesting Record Procedures, and Notification Procedures sections below.

II. Privacy Act

The Privacy Act of 1974, as amended, embodies fair information practice principles in a statutory framework governing the means by which Federal agencies collect, maintain, use, and disseminate individuals' records. The Privacy Act applies to records about individuals that are maintained in a ''system of records.'' A ''system of records'' is a group of any records under the control of an agency from which information is retrieved by the name of an individual or by some identifying number, symbol, or other identifying particular assigned to the individual.

The Privacy Act requires each agency to publish in the **Federal Register** a description denoting the existence and character of each system of records that the agency maintains and the routine uses of each system. The ABMC–6, Personnel and Payroll System, system of records notice is published in its entirety below. In accordance with 5 U.S.C. 552a(r), ABMC has provided a report of this system of records to the Office of Management and Budget and to Congress.

Dated: August 21, 2017.

Edwin Fountain,

Senior Agency Official for Privacy.

SYSTEM NAME AND NUMBER

ABMC–6, Personnel and Payroll System.

SECURITY CLASSIFICATION:

Unclassified.

SYSTEM LOCATION:

The ABMC–6, Personnel and Payroll System, system of records is centrally managed by the American Battle Monuments Commission, 2300 Clarendon Boulevard, Suite 500, Arlington, VA 22201–3367. Electronic payroll and personnel records processed through the FPPS under a shared service agreement with DOI are located at the U.S. Department of the Interior, Interior Business Center, Human Resources and Payroll Services, 7301 W Mansfield Ave. MS D–2000 Denver, CO 80235.

SYSTEM MANAGER(S):

Chief Human Resources, American Battle Monuments Commission, 2300 Clarendon Boulevard, Suite 500, Arlington, VA 22201.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

36 U.S.C. 2102; 5 U.S.C. Chapter 55; 5 CFR part 293; and Executive Order 9397 as amended by Executive Order 13478, relating to Federal agency use of Social Security numbers.

PURPOSE(S) OF THE SYSTEM:

The purpose of the system is to allow ABMC to collect and maintain records on current and former employees to ensure proper payment for salary and benefits, and to track time worked, leave, or other absences for reporting and compliance purposes.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

The system maintains records concerning current and former ABMC employees, including volunteers and emergency employees, and limited information regarding employee spouses, dependents, emergency contacts, or in the case of an estate, a trustee who meets the definition of ''individual'' as that term is defined in the Privacy Act. The Privacy Act defines an individual as a United States citizen or an alien lawfully admitted for permanent residence. Although ABMC employs U.S. citizens, lawful permanent residents, and nationals from foreign countries, the ABMC–6 system of records only maintains records concerning ABMC employees who are U.S. citizens and lawful permanent residents.

CATEGORIES OF RECORDS IN THE SYSTEM:

This system maintains records including:

- *Employee biographical and employment information*: Employee name, other names used, citizenship, gender, date of birth, group affiliation, marital status, Social Security number (SSN), truncated SSN, legal status, place of birth, records related to position, occupation, duty location, security clearance, financial information, medical information, disability information, education information, driver's license, race/ethnicity, personal telephone number, personal email address, military status/service, mailing/home address, Taxpayer Identification Number, bank account information, professional licensing and credentials, family relationships, age, involuntary debt (garnishments or child support payments), employee common identifier (ECI), user identification and any other employment information.
- *Third-party information*: Spouse information, emergency contact, beneficiary information, savings bond co-owner name(s) and information, family members and dependents information.
- *Salary and benefits information*: Salary data, retirement data, tax data, deductions, health benefits, deductions, allowances, union dues, insurance data, Flexible Spending Account, Thrift Savings Plan contributions, pay plan, payroll records, awards, court order information, back pay information, debts owed to the government as a result of overpayment, refunds owed, or a debt referred for collection on a transferred employee or emergency worker.
- *Timekeeping information*: Time and attendance records, leave records, the system may also maintain records including other information required to administer payroll, leave, and related functions.

RECORD SOURCE CATEGORIES:

Information is obtained from individuals on whom the records are maintained, official personnel records of individuals on whom the records are maintained, supervisors, timekeepers, previous employers, the Internal Revenue Service and state tax agencies, the Department of the Treasury, other Federal agencies, courts, state child support agencies, employing agency accounting offices, and third-party benefit providers.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND PURPOSES OF SUCH USES:

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act, all or a portion of the records or information maintained in this system may be disclosed to authorized entities outside ABMC for purposes determined to be relevant and necessary as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows:

A. To the Department of Justice (DOJ), including Offices of the U.S. Attorneys, or other Federal agencies conducting litigation or in proceedings before any court, adjudicative, or administrative body, when it is relevant or necessary to the litigation and one of the following is a party to the litigation or has an interest in such litigation:

(1) ABMC;

(2) Any employee or former employee of ABMC in his or her official capacity;

(3) Any employee or former employee of ABMC in his or her individual capacity when DOJ or ABMC has agreed to represent the employee; or

(4) The U.S. Government or any agency thereof.

B. To a congressional office in response to a written inquiry that an individual covered by the system, or the heir of such individual if the covered individual is deceased, has made to the office.

C. To the Office of Management and Budget (OMB) during the coordination and clearance process in connection with legislative affairs as mandated by OMB Circular A–19.

D. To other Federal agencies who provide payroll and personnel processing services under a cross-servicing agreement for purposes relating to ABMC employee payroll and personnel processing.

E. To another federal agency as required for payroll purposes, including to the Department of the Treasury for preparation of payroll and to issue checks and electronic funds transfer.

F. To the Office of Personnel Management, the Merit System Protection Board, Federal Labor Relations Authority, or the Equal Employment Opportunity Commission when requested in the performance of their authorized duties.

G. To appropriate Federal and state agencies to provide reports including data on unemployment insurance.

H. To State offices of unemployment compensation to assist in processing an individual's unemployment, survivor annuity, or health benefit claim, or for records reconciliation purposes.

I. To Federal Employee's Group Life Insurance or Health Benefits carriers in connection with survivor annuity or health benefits claims or records reconciliations.

J. To the Internal Revenue Service and State and local tax authorities for which an employee is or was subject to tax regardless of whether tax is or was withheld in accordance with Treasury Fiscal Requirements, as required.

K. To the Internal Revenue Service or to another Federal agency or its contractor to disclose debtor information solely to aggregate information for the Internal Revenue Service to collect debts owed to the Federal government through the offset of tax refunds.

L. To any creditor Federal agency seeking assistance for the purpose of that agency implementing administrative or salary offset procedures in the collection of unpaid financial obligations owed the United States Government from an individual.

M. To any Federal agency where the individual debtor is employed or receiving some form of remuneration for the purpose of enabling that agency to collect debts on the employee's behalf by administrative or salary offset procedures under the provisions of the Debt Collection Act of 1982.

N. To the Internal Revenue Service, and state and local authorities for the purposes of locating a debtor to collect a claim against the debtor.

O. To any source from which additional information is requested by ABMC relevant to an ABMC determination concerning an individual's pay, leave, or travel expenses, to the extent necessary to identify the individual, inform the source of the purpose(s) of the request, and to identify the type of information requested.

P. To the Social Security Administration and the Department of

the Treasury to disclose pay data on an annual basis.

Q. To the Social Security Administration to credit the employee or emergency worker account for Old-Age, Survivors, and Disability Insurance (OASDI) and Medicare deductions.

R. To the Federal Retirement Thrift Investment Board's record keeper, which administers the Thrift Savings Plan, to report deductions, contributions, and loan payments.

S. To a Federal agency or in response to a congressional inquiry when additional or statistical information is requested relevant to the ABMC Transit Fare Subsidy Program.

T. To the Department of Health and Human Services for the purpose of providing information on new hires and quarterly wages as required under the Personal Responsibility and Work Opportunity Reconciliation Act of 1996.

U. To the Office of Child Support Enforcement, Administration for Children and Families, Department of Health and Human Services for the purposes of locating individuals to establish paternity; establishing and modifying orders of child support; identifying sources of income; and for other child support enforcement actions as required by the Personal Responsibility and Work Opportunity Reconciliation Act (Welfare Reform Law, Pub. L. 104–193).

V. To the Office of Personnel Management or its contractors in connection with programs administered by that office, including, but not limited to, the Federal Long Term Care Insurance Program, the Federal Dental and Vision Insurance Program, the Flexible Spending Accounts for Federal Employees Program, and the electronic Human Resources Information Program.

W. To charitable institutions, when an employee designates an institution to receive contributions through salary deduction.

X. To any criminal, civil, or regulatory law enforcement authority (whether Federal, state, territorial, local, tribal or foreign) when a record, either alone or in conjunction with other information, indicates a violation or potential violation of law—criminal, civil, or regulatory in nature.

Y. To the National Archives and Records Administration (NARA) to conduct records management inspections under the authority of 44 U.S.C. 2904 and 2906.

Z. To an expert, consultant, grantee, or contractor (including employees of the contractor) of ABMC that performs services requiring access to these records on ABMC's behalf to carry out the purposes of the system, including employment verifications, unemployment claims, and W–2 services.

AA. To the Department of Labor for processing claims for employees, emergency workers, or volunteers injured on the job or claiming occupational illness.

BB. To appropriate agencies, entities, and persons when:

(1) ABMC suspects or has confirmed that there has been a breach of the system of records,

(2) ABMC has determined that as a result of the suspected or confirmed breach there is a risk of harm to individuals, ABMC (including its information systems, programs, and operations), the Federal Government, or national security; and

(3) The disclosure made to such agencies, entities, and persons is reasonably necessary to assist in connection with ABMC's efforts to respond to the suspected or confirmed breach or to prevent, minimize, or remedy such harm.

CC. To another Federal agency or Federal entity, when ABMC determines that information from this system of records is reasonably necessary to assist the recipient agency or entity in:

(1) Responding to a suspected or confirmed breach; or

(2) preventing, minimizing, or remedying the risk of harm to individuals, the recipient agency or entity (including its information systems, programs, and operations), the Federal Government, or national security, resulting from a suspected or confirmed breach.

DD. To another Federal agency to provide information needed in the performance of official duties related to reconciling or reconstructing data files or to enable that agency to respond to an inquiry by the individual to whom the record pertains.

EE. To Federal, state, territorial, local, tribal, or foreign agencies that have requested information relevant or necessary to the hiring, firing or retention of an employee or contractor, or to the issuance of a security clearance, license, contract, grant or other benefit.

FF. To an agency or organization for the purpose of performing audit or oversight operations as authorized by law, but only such information as is necessary and relevant to such audit or oversight function.

GG. In an appropriate proceeding before a court, grand jury, or administrative or adjudicative body, when the Department of Justice determines that the records are arguably relevant to the proceeding; or in an appropriate proceeding before an administrative or adjudicative body when the adjudicator determines the records to be relevant to the proceeding.

HH. To the news media and the public, with the approval of the Agency Privacy Officer in consultation with counsel, when there exists a legitimate public interest in the disclosure of the information or when disclosure is necessary to preserve confidence in the integrity of ABMC or is necessary to demonstrate the accountability of ABMC's officers, employees, or individuals covered by the system, except to the extent it is determined that release of the specific information in the context of a particular case would constitute an unwarranted invasion of personal privacy.

POLICIES AND PRACTICES FOR STORAGE OF RECORDS:

Paper records are maintained in file folders stored within locking filing cabinets or locked rooms in secured facilities with controlled access. Electronic records are stored in computers, removable drives, storage devices, electronic databases, and other electronic media under the control of ABMC, and in other Federal agency systems pursuant to interagency sharing agreements.

POLICIES AND PRACTICES FOR RETRIEVAL OF RECORDS:

Records may be retrieved by name, SSN, ECI, birth date, organizational code, or other assigned person.

POLICIES AND PRACTICES FOR RETENTION AND DISPOSAL OF RECORDS:

Records are maintained in accordance with General Records Schedule (GRS) 1.0 ''Finance'', and GRS 2.0 ''Human Resources'', which are approved by the National Archives and Records Administration. The system generally maintains temporary records, and retention periods vary based on the type of record under each item and the needs of the agency. Paper records are disposed of by shredding or pulping, and records maintained on electronic media are degaussed or erased in accordance with the applicable records retention schedule and NARA guidelines.

ADMINISTRATIVE, TECHNICAL, AND PHYSICAL SAFEGUARDS:

The records maintained in this system are safeguarded in accordance with ABMC security and privacy rules and policies. During normal hours of operations, paper records are maintained in locked files cabinets under the control of authorized personnel. Information technology

systems follow the National Institute of Standards and Technology privacy and security standards developed to comply with the Privacy Act of 1974 as amended, 5 U.S.C. 552a; the Paperwork Reduction Act of 1995, Pub. L. 104–13; the Federal Information Security Modernization Act of 2014, Pub L. 113–283, as codified at 44 U.S.C. 3551 *et seq.;* and the Federal Information Processing Standard 199, Standards for Security Categorization of Federal Information and Information Systems. Computer servers on which electronic records are stored are located in secured ABMC and DOI facilities with physical, technical and administrative levels of security to prevent unauthorized access to the ABMC and DOI network and information assets. Security controls include encryption, firewalls, audit logs, and network system security monitoring. Electronic data is protected through user identification, passwords, database permissions and software controls. Access to records in the system is limited to authorized personnel who have a need to access the records in the performance of their official duties, and each person's access is restricted to only the functions and data necessary to perform that person's job responsibilities. System administrators and authorized users for both ABMC and DOI are trained and required to follow established internal security protocols and must complete all security, privacy, and records management training, and sign Rules of Behavior for each agency.

RECORD ACCESS PROCEDURES:

An individual may request records on himself or herself by sending a signed, written inquiry to American Battle Monuments Commission, Office of the General Counsel, 2300 Clarendon Boulevard, Suite 500, Arlington VA 22201, or by calling the Office of the General Counsel at (703) 696–6902 on business days, between the hours of 9 a.m. and 5 p.m., to schedule an appointment to make such a request in person. Requests for records access must meet the requirements of ABMC Privacy Act regulations at 36 CFR part 407.

CONTESTING RECORD PROCEDURES:

An individual requesting amendment or correction of his or her records should send a signed, written request to American Battle Monuments Commission, Office of the General Counsel, 2300 Clarendon Boulevard, Suite 500, Arlington VA 22201. Requests for amendment or correction must meet the requirements of ABMC Privacy Act regulations at 36 CFR Sections 407.6 and 407.7.

NOTIFICATION PROCEDURES:

An individual may inquire whether this system of records maintains records about him or her by sending a signed, written inquiry to American Battle Monuments Commission, Office of the General Counsel, 2300 Clarendon Boulevard, Suite 500, Arlington VA 22201, or by calling the Office of the General Counsel at (703) 696–6902 on business days, between the hours of 9 a.m. and 5 p.m., to schedule an appointment to make such a request in person. Requests for notifications must meet the requirements of ABMC Privacy Act regulations at 36 CFR part 407.

EXEMPTIONS PROMULGATED FOR THE SYSTEM:

None.

HISTORY:

None.

[FR Doc. 2017–18904 Filed 9–6–17; 8:45 am]

BILLING CODE 6120–01–P

CHEMICAL SAFETY AND HAZARD INVESTIGATION BOARD

Sunshine Act Meeting

TIME AND DATE: September 18, 2017, 1:00 p.m. EDT.

PLACE: U.S. Chemical Safety Board, 1750 Pennsylvania Ave. NW., Suite 910, Washington, DC 20006.

STATUS: Open to the public.

MATTERS TO BE CONSIDERED: The Chemical Safety and Hazard Investigation Board (CSB) will convene a public meeting on September 18, 2017, starting at 1:00 p.m. EDT in Washington, DC, at the CSB offices located at 1750 Pennsylvania Avenue NW., Suite 910. The Board will provide a summary of work completed in FY 2017 and discuss the CSB report on the ExxonMobil Baton Rouge Refinery incident. An opportunity for public comment will be provided.

Additional Information

The meeting is free and open to the public. If you require a translator or interpreter, please notify the individual listed below as the ''Contact Person for Further Information,'' at least three business days prior to the meeting.

A conference call line will be provided for those who cannot attend in person. Please use the following dial-in number to join the conference: **1–888–862–6557, Confirmation 45538361**.

The CSB is an independent federal agency charged with investigating accidents and hazards that result, or may result, in the catastrophic release of extremely hazardous substances. The agency's Board Members are appointed by the President and confirmed by the Senate. CSB investigations look into all aspects of chemical accidents and hazards, including physical causes such as equipment failure as well as inadequacies in regulations, industry standards, and safety management systems.

Public Comment

The time provided for public statements will depend upon the number of people who wish to speak. Speakers should assume that their presentations will be limited to three minutes or less, but commenters may submit written statements for the record.

Contact Person for Further Information

Hillary Cohen, Communications Manager, at *public@csb.gov* or (202) 446–8094. Further information about this public meeting can be found on the CSB Web site at: *www.csb.gov.*

Dated: September 5, 2017.

Kara A. Wenzel,

Acting General Counsel, Chemical Safety and Hazard Investigation Board.

[FR Doc. 2017–19063 Filed 9–5–17; 4:15 pm]

BILLING CODE 6350–01–P

COMMISSION ON CIVIL RIGHTS

Notice of Public Meeting of the Arkansas Advisory Committee to Review and Comment on the Proposal for the Topic of Study

AGENCY: U.S. Commission on Civil Rights.

ACTION: Announcement of meeting.

SUMMARY: Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights (Commission) and the Federal Advisory Committee Act that the Arkansas Advisory Committee (Committee) will hold a meeting on Wednesday, September 13, 2017, at 11:00 a.m. Central for the purpose of discussing the proposal on a topic of study.

DATES: The meeting will be held on Wednesday, September 13, 2017, at 11:00 a.m. Central.

ADDRESSES: Public call information: Dial: 888–468–2440, Conference ID: 1753471.

FOR FURTHER INFORMATION CONTACT: David Barreras, DFO, at *dbarreras@usccr.gov* or 312–353–8311.

SUPPLEMENTARY INFORMATION: Members of the public can listen to the discussion. This meeting is available to the public through the following toll-

free call-in number: 888–468–2440, conference ID: 1753471. Any interested member of the public may call this number and listen to the meeting. An open comment period will be provided to allow members of the public to make a statement as time allows. The conference call operator will ask callers to identify themselves, the organization they are affiliated with (if any), and an email address prior to placing callers into the conference room. Callers can expect to incur regular charges for calls they initiate over wireless lines, according to their wireless plan. The Commission will not refund any incurred charges. Callers will incur no charge for calls they initiate over land-line connections to the toll-free telephone number. Persons with hearing impairments may also follow the proceedings by first calling the Federal Relay Service at 1–800–977–8339 and providing the Service with the conference call number and conference ID number.

Members of the public are also entitled to submit written comments; the comments must be received in the regional office within 30 days following the meeting. Written comments may be mailed to the Midwestern Regional Office, U.S. Commission on Civil Rights, 55 W. Monroe St., Suite 410, Chicago, IL 60615. They may also be faxed to the Commission at (312) 353–8324, or emailed to Carolyn Allen at *callen@usccr.gov.* Persons who desire additional information may contact the Midwestern Regional Office at (312) 353–8311.

Records generated from this meeting may be inspected and reproduced at the Midwestern Regional Office, as they become available, both before and after the meeting. Records of the meeting will be available via *www.facadatabase.gov* under the Commission on Civil Rights, Arkansas Advisory Committee link (*http://www.facadatabase.gov/committee/meetings.aspx?cid=236*). Persons interested in the work of this Committee are directed to the Commission's Web site, *http://www.usccr.gov,* or may contact the Midwestern Regional Office at the above email or street address.

Agenda

Welcome and Roll Call
Review Project Proposal
Next Steps
Public Comment
Adjournment

Exceptional Circumstance: Pursuant to 41 CFR 102–3.150, the notice for this meeting is given less than 15 calendar days prior to the meeting because of the exceptional circumstance of unit capacity issue that required filing the meeting on this date.

Dated: September 1, 2017.

David Mussatt,

Supervisory Chief, Regional Programs Unit.

[FR Doc. 2017–18980 Filed 9–6–17; 8:45 am]

BILLING CODE P

DEPARTMENT OF COMMERCE

Submission for OMB Review; Comment Request

The Department of Commerce will submit to the Office of Management and Budget (OMB) for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Agency: Bureau of Industry and Security.

Title: Additional Protocol to the U.S.-IAEA Safeguards Agreement Report Forms.

Form Number(s): N/A.

OMB Control Number: 0694–0135.

Type of Review: Regular submission.

Estimated Total Annual Burden Hours: 844.

Estimated Number of Respondents: 500.

Estimated Time per Response: 22 minutes to 6 hours.

Needs and Uses: This collection covers information concerning Additional Protocols required from the United States to submit declaration forms to the IAEA on a number of commercial nuclear and nuclear-related items, materials, and activities that may be used for peaceful nuclear purposes, but also would be necessary elements for a nuclear weapons program.

Affected Public: Business or other for-profit organizations.

Frequency: On Occasion.

Respondent's Obligation: Voluntary.

This information collection request may be viewed at reginfo.gov *http://www.reginfo.gov/public/*. Follow the instructions to view Department of Commerce collections currently under review by OMB.

Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to *OIRA_Submission@omb.eop.gov.*

Sheleen Dumas,

Departmental PRA Lead, Office of the Chief Information Officer.

[FR Doc. 2017–18981 Filed 9–6–17; 8:45 am]

BILLING CODE 3510–33–P

DEPARTMENT OF COMMERCE

Submission for OMB Review; Comment Request

The Department of Commerce will submit to the Office of Management and Budget (OMB) for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Agency: Bureau of Industry and Security.

Title: Import, End-User, and Delivery Verification Certificates.

Form Number(s): N/A.

OMB Control Number: 0694–0093.

Type of Review: Regular submission.

Estimated Total Annual Burden Hours: 1,618.

Estimated Number of Respondents: 5,874.

Estimated Time per Response: 15 to 30 minutes.

Needs and Uses: This collection of information provides the certification of the overseas importer to the U.S. Government that specific commodities will be imported from the U.S. and will not be reexported, except in accordance with U.S. export regulations.

Affected Public: Business or other for-profit organizations.

Frequency: On Occasion.

Respondent's Obligation: Voluntary.

This information collection request may be viewed at *reginfo.gov http://www.reginfo.gov/public/*. Follow the instructions to view Department of Commerce collections currently under review by OMB.

Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to *OIRA_Submission@omb.eop.gov.*

Sheleen Dumas,

Departmental PRA Lead, Office of the Chief Information Officer.

[FR Doc. 2017–18982 Filed 9–6–17; 8:45 am]

BILLING CODE 3510–33–P

DEPARTMENT OF COMMERCE

Economic Development Administration

Notice of Petitions by Firms for Determination of Eligibility To Apply for Trade Adjustment Assistance

AGENCY: Economic Development Administration, U.S. Department of Commerce.

ACTION: Notice and opportunity for public comment.

SUMMARY: The Economic Development Administration (EDA) has received

petitions for certification of eligibility to apply for Trade Adjustment Assistance from the firms listed below. Accordingly, EDA has initiated investigations to determine whether increased imports into the United States of articles like or directly competitive with those produced by each of these firms contributed importantly to the total or partial separation of the firm's workers, or threat thereof, and to a decrease in sales or production of each petitioning firm.

LIST OF PETITIONS RECEIVED BY EDA FOR CERTIFICATION ELIGIBILITY TO APPLY FOR TRADE ADJUSTMENT ASSISTANCE 8/24/2017 THROUGH 8/31/2017

Firm name	Firm address	Date accepted for investigation	Product(s)
Dusty Strings Company	3450 16th Avenue West, Suite 200, Seattle, WA 98119.	8/29/2017	The firm manufactures harps and other string instruments, such as dulcimers.
Pentz Design Pattern & Foundry, Inc	14823 Main Street Northeast, Duvall, WA 98019.	8/28/2017	The firm manufactures custom precision aluminum castings and molds.
Perfection Spring & Stamping Corporation.	1449 East Algonquin Road, Mount Prospect, IL 60056.	8/29/2017	The firm manufactures wire forms, springs and other articles of iron and steel.

SUPPLEMENTARY INFORMATION: Any party having a substantial interest in these proceedings may request a public hearing on the matter. A written request for a hearing must be submitted to the Trade Adjustment Assistance for Firms Division, Room 71030, Economic Development Administration, U.S. Department of Commerce, Washington, DC 20230, no later than ten (10) calendar days following publication of this notice. These petitions are received pursuant to section 251 of the Trade Act 1974, as amended.

Please follow the requirements set forth in EDA's regulations at 13 CFR 315.9 for procedures to request a public hearing. The Catalog of Federal Domestic Assistance official number and title for the program under which these petitions are submitted is 11.313, Trade Adjustment Assistance for Firms.

Miriam Kearse,

Lead Program Analyst.

[FR Doc. 2017–18956 Filed 9–6–17; 8:45 am]

BILLING CODE 3510–WH–P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[Order No. 2039]

Reorganization and Expansion of Foreign-Trade Zone 193 Under Alternative Site Framework; Pinellas County, Florida

Pursuant to its authority under the Foreign-Trade Zones Act of June 18, 1934, as amended (19 U.S.C. 81a–81u), the Foreign-Trade Zones Board (the Board) adopts the following Order:

Whereas, the Foreign-Trade Zones (FTZ) Act provides for '' * * * the establishment * * * of foreign-trade zones in ports of entry of the United States, to expedite and encourage foreign commerce, and for other purposes,'' and authorizes the Foreign-Trade Zones Board to grant to qualified corporations the privilege of establishing foreign-trade zones in or adjacent to U.S. Customs and Border Protection ports of entry;

Whereas, the Board adopted the alternative site framework (ASF) (15 CFR Sec. 400.2(c)) as an option for the establishment or reorganization of zones;

Whereas, Pinellas County, Florida, grantee of Foreign-Trade Zone 193, submitted an application to the Board (FTZ Docket B–50–2016, docketed August 2, 2016) for authority to reorganize and expand under the ASF with a service area of Pinellas, Hernando and Pasco Counties, Florida, in and adjacent to the St. Petersburg Customs and Border Protection port of entry, FTZ 193's existing Sites 1, 2 and 3 would be categorized as magnet sites, and the zone would have four initial usage-driven sites (Sites 4, 5, 6 and 7), with Temporary Site 8 maintaining its current designation;

Whereas, notice inviting public comment was given in the **Federal Register** (81 FR 52401, August 8, 2016) and the application has been processed pursuant to the FTZ Act and the Board's regulations; and,

Whereas, the Board adopts the findings and recommendations of the examiner's report, and finds that the requirements of the FTZ Act and the Board's regulations are satisfied;

Now, Therefore, the Board hereby orders:

The application to reorganize and expand FTZ 193 under the ASF is approved, subject to the FTZ Act and the Board's regulations, including Section 400.13, to the Board's standard 2,000-acre activation limit for the zone, to an ASF sunset provision for magnet sites that would terminate authority for Sites 2 and 3 if not activated within five years from the month of approval, and to an ASF sunset provision for usage-driven sites that would terminate authority for Sites 4, 5, 6 and 7 if no foreign-status merchandise is admitted for a *bona fide* customs purpose within three years from the month of approval.

Dated: August 25, 2017.

Gary Taverman,

Deputy Assistant Secretary for AD/CVD Operations performing the non-exclusive functions and duties of the Assistant Secretary for Enforcement & Compliance, Alternate Chairman, Foreign-Trade Zones Board.

[FR Doc. 2017–18903 Filed 9–6–17; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

Bureau of Industry and Security

[Docket No. 170816771–7771–01]

RIN 0694–XC040

Effects of Extending Foreign Policy-Based Export Controls Through 2018

AGENCY: Bureau of Industry and Security, Commerce.

ACTION: Request for comments.

SUMMARY: The Bureau of Industry and Security (BIS) is seeking public comments on the effect of existing foreign policy-based export controls in the Export Administration Regulations. Section 6 of the Export Administration Act requires BIS to consult with industry on the effect of such controls and to report the results of the consultations to Congress. BIS is conducting the consultations through this request for public comments.

Comments from all interested persons are welcome and will help BIS determine whether its foreign policy-based export controls should be continued for another year. All comments will be made available for public inspection and copying and included in a report to be submitted to Congress.

DATES: Comments must be received by October 10, 2017.

ADDRESSES: Comments on this rule may be submitted through the Federal e-Rulemaking portal (*www.regulations.gov*). The *regulations.gov* ID for this rule is: BIS–2017–0024. Comments may also be sent by email to *publiccomments@bis.doc.gov* or on paper to Regulatory Policy Division, Bureau of Industry and Security, Department of Commerce, 14th Street & Pennsylvania Avenue NW., Room 2099B, Washington, DC 20230. Include the phrase ''FPBEC Comment'' in the subject line of the email message or on the envelope if submitting comments on paper. All comments must be in writing (either submitted to *regulations.gov*, by email or on paper). All comments, including Personal Identifying Information (*e.g.,* name, address) voluntarily submitted by the commenter will be a matter of public record and will be available for public inspection and copying. Do not submit Confidential Business Information or otherwise sensitive or protected information.

FOR FURTHER INFORMATION CONTACT: Tracy Patts, Foreign Policy Division, Office of Nonproliferation Controls and Treaty Compliance, Bureau of Industry and Security, telephone 202–482–6389. Copies of the current Annual Foreign Policy Report to the Congress are available at *http://www.bis.doc.gov/index.php/about-bis/newsroom/archives/27-about-bis/502-foreign-policy-reports,* and copies may also be requested by calling the Office of Nonproliferation and Treaty Compliance at the number listed above.

SUPPLEMENTARY INFORMATION: Foreign policy-based controls in the Export Administration Regulations (EAR) are implemented pursuant to section 6 of the Export Administration Act of 1979, as amended, (50 U.S.C. 4601–4623 (Supp. III 2015)) (EAA). The current foreign policy-based export controls maintained by the Bureau of Industry and Security (BIS) are set forth in the EAR (15 CFR parts 730–774), including in parts 742 (CCL Based Controls), 744 (End-User and End-Use Based Controls) and 746 (Embargoes and Other Special Controls). These controls apply to a range of countries, items, activities and persons, including:

- Chemical precursors and biological agents, associated equipment, technical data, and software related to the production of chemical and biological agents (§§ 742.2 and 744.4) and various chemicals included on the list of those chemicals controlled pursuant to the Chemical Weapons Convention (§ 742.18);
- Equipment and related technical data used in the design, development, production, or use of certain rocket systems and unmanned air vehicles (§§ 742.5 and 744.3);
- Regional stability (§ 742.6);
- Crime control and detection items (§ 742.7);
- Countries designated as Supporters of Acts of International Terrorism (§§ 742.8, 742.9, 742.10, 742.19, 746.4, 746.7, and 746.9);
- Specially designed implements of torture (§ 742.11);
- Communication intercepting devices, software and technology (§ 742.13);
- Significant items (SI): Hot section technology for the development, production, or overhaul of commercial aircraft engines, components, and systems (§ 742.14);
- Encryption items (§ 742.15);
- Certain firearms and related items based on the Organization of American States Model Regulations for the Control of the International Movement of Firearms, their Parts and Components and Ammunition included within the Inter-American Convention Against the Illicit Manufacturing of and Trafficking in Firearms, Ammunition, Explosives, and Other Related Materials (§ 742.17);
- Maritime nuclear propulsion (§ 744.5);
- Certain foreign aircraft and vessels (§ 744.7);
- Certain persons designated as proliferators of weapons of mass destruction (§ 744.8);
- Certain cameras to be used by military end-users or incorporated into a military commodity (§ 744.9);
- Certain entities in Russia (§ 744.10);
- Individual terrorists and terrorist organizations (§§ 744.12, 744.13 and 744.14);
- Entities acting contrary to the national security or foreign policy interests of the United States (§ 744.11);
- Certain general purpose microprocessors for ''military end-uses'' and ''military end-users'' (§ 744.17);
- Certain persons designated by Executive Order 13315 (''Blocking Property of the Former Iraqi Regime, Its Senior Officials and Their Family Members'') (§ 744.18);
- Certain sanctioned entities (§ 744.20);
- Embargoed countries (Part 746);
- U.S. and U.N. arms embargoes (§ 746.1 and Country Group D:5 of Supplement No. 1 to Part 740); and
- Industry sectors and regions related to U.S. policy towards Russia (§ 746.5).

In addition, the EAR impose foreign policy-based export controls on certain nuclear related commodities, technology, end-uses and end-users (§§ 742.3 and 744.2), in part, implementing section 309(c) of the Nuclear Non-Proliferation Act (42 U.S.C. 2139a).

Under the provisions of section 6 of the EAA, export controls maintained for foreign policy purposes must be extended annually. Section 6 of the EAA requires a report to Congress when foreign policy-based export controls are extended. The EAA expired on August 20, 2001. Executive Order 13222 of August 17, 2001 (3 CFR, 2001 Comp., p. 783 (2002)), as amended by Executive Order 13637 of March 8, 2013 (3 CFR, 2013 Comp., p. 223 (2014), which has been extended by successive Presidential Notices, the most recent being that of August 15, 2017, (82 FR 39005 (August 16, 2017)) continues the EAR and, to the extent permitted by law, the provisions of the EAA, in effect under the International Emergency Economic Powers Act (50 U.S.C. 1701, *et seq.* (2012)). The Department of Commerce, as appropriate, follows the provisions of section 6 of the EAA by reviewing its foreign policy-based export controls, conducting consultations with industry on such controls through public comments and preparing a report to be submitted to Congress. In January 2017, the Secretary of Commerce, on the recommendation of the Secretary of State, extended for one year all foreign policy-based export controls then in effect. BIS is now soliciting public comment on the effects of extending the existing foreign policy-based export controls from January 2018 to January 2019. Among the criteria considered in determining whether to extend U.S. foreign policy-based export controls are the following:

1. The likelihood that such controls will achieve their intended foreign policy purposes, in light of other factors, including the availability from other countries of the goods, software or technology proposed for such controls;

2. Whether the foreign policy objective of such controls can be achieved through negotiations or other alternative means;

3. The compatibility of the controls with the foreign policy objectives of the United States and with overall U.S.

policy toward the country subject to the controls;

4. Whether the reaction of other countries to the extension of such controls is not likely to render the controls ineffective in achieving the intended foreign policy objective or be counterproductive to U.S. foreign policy interests;

5. The comparative benefits to U.S. foreign policy objectives versus the effect of the controls on the export performance of the United States, the competitive position of the United States in the international economy, the international reputation of the United States as a supplier of goods and technology; and

6. The ability of the United States to effectively enforce the controls.

BIS is particularly interested in receiving comments on the economic impact of proliferation controls. BIS is also interested in industry information relating to the following:

1. Information on the effect of foreign policy-based export controls on sales of U.S. products to third countries (*i.e.,* those countries not targeted by sanctions), including the views of foreign purchasers or prospective customers regarding U.S. foreign policy-based export controls.

2. Information on controls maintained by U.S. trade partners. For example, to what extent do U.S. trade partners have similar controls on goods and technology on a worldwide basis or to specific destinations?

3. Information on licensing policies or practices by our foreign trade partners that are similar to U.S. foreign policy based export controls, including license review criteria, use of conditions, and requirements for pre- and post-shipment verifications (preferably supported by examples of approvals, denials and foreign regulations).

4. Suggestions for bringing foreign policy-based export controls more into line with multilateral practice.

5. Comments or suggestions to make multilateral controls more effective.

6. Information that illustrates the effect of foreign policy-based export controls on trade or acquisitions by intended targets of the controls.

7. Data or other information on the effect of foreign policy-based export controls on overall trade at the level of individual industrial sectors.

8. Suggestions for measuring the effect of foreign policy-based export controls on trade.

9. Information on the use of foreign policy-based export controls on targeted countries, entities, or individuals. BIS is also interested in comments relating generally to the extension or revision of existing foreign policy-based export controls.

Parties submitting comments are asked to be as specific as possible. All comments received before the close of the comment period will be considered by BIS in reviewing the controls and in developing the report to Congress. All comments received in response to this notice will be displayed on BIS's Freedom of Information Act (FOIA) Web site at *http://efoia.bis.doc.gov/* and on the Federal e-Rulemaking portal at *www.Regulations.gov.* All comments will also be included in a report to Congress, as required by section 6 of the EAA, which directs that BIS report to Congress the results of its consultations with industry on the effects of foreign policy-based controls.

Matthew S. Borman,

Deputy Assistant Secretary for Export Administration.

[FR Doc. 2017–19010 Filed 9–6–17; 8:45 am]

BILLING CODE 3510–33–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–016]

Certain Passenger Vehicle and Light Truck Tires From the People's Republic of China: Preliminary Results of Antidumping Duty Administrative Review, Preliminary Determination of No Shipments, and Rescission, in Part; 2015–2016

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: The Department of Commerce (the Department) is conducting an administrative review of the antidumping duty order on certain passenger vehicle and light truck tires (passenger tires) from the People's Republic of China (PRC). The period of review (POR) is January 27, 2015 through July 31, 2016. The administrative review covers 108 respondents, including four mandatory respondents: Giti Tire Global Trading Pte. Ltd. (Giti), which we have preliminarily treated as a single entity with four affiliated companies identified below, Qingdao Sentury Tire Co., Ltd. (Sentury), which we have preliminarily treated as a single entity with two affiliated companies identified below, Best Choice International Trade Co., Limited (Best Choice), which withdrew its participation from the administrative review and will be treated as part of the PRC-wide entity, and Shandong Haohua Tire Co., Ltd. (Haohua), which withdrew its participation from the administrative review and will be treated as part of the PRC-wide entity. The Department preliminarily finds that Giti and Sentury sold subject merchandise in the United States at prices below normal value (NV) during the POR. In addition, we preliminarily determine that 65 companies/company groupings have established their eligibility for a separate rate, and that ten companies under review made no shipments of subject merchandise during the POR. Finally, we are rescinding this administrative review with respect to Cooper Tire & Rubber Company/Cooper Chengshan (Shandong) Tire Co., Ltd./Cooper (Kunshan) Tire Co., Ltd. (collectively Cooper). Interested parties are invited to comment on these preliminary results.

DATES: September 7, 2017.

FOR FURTHER INFORMATION CONTACT: Toni Page, Lingjun Wang, or Jun Jack Zhao, AD/CVD Operations, Office VII, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW., Washington, DC 20230; telephone: (202) 482–1398, (202) 482–2316, or (202) 482–1396, respectively.

SUPPLEMENTARY INFORMATION:

Scope of the Order

The scope of the order is passenger vehicle and light truck tires. Passenger vehicle and light truck tires are new pneumatic tires, of rubber, with a passenger vehicle or light truck size designation.[1] Merchandise covered by this order is classifiable under subheadings 4011.10.10.10, 4011.10.10.20, 4011.10.10.30, 4011.10.10.40, 4011.10.10.50, 4011.10.10.60, 4011.10.10.70, 4011.10.50.00, 4011.20.10.05, 4011.20.50.10, 4011.99.45.10, 4011.99.45.50, 4011.99.85.10, 4011.99.85.50, 8708.70.45.45, 8708.70.45.60, 8708.70.60.30, 8708.70.60.45, and 8708.70.60.60 of the Harmonized Tariff Schedule of the United States (HTSUS). Although the HTSUS subheadings are provided for convenience and customs purposes, our written description of the scope of the order is dispositive.

[1] For a complete description of the scope of the order, *see* ''Decision Memorandum for the Preliminary Results of the Antidumping Duty Administrative Review of Certain Passenger Vehicle and Light Truck Tires from the People's Republic of China, Preliminary Determination of No Shipments; and Rescission, in part; 2015–2016,'' (August 31, 2017) (Preliminary Decision Memorandum).

Preliminary Determination of No Shipments

Based on an analysis of U.S. Customs and Border Protection (CBP) information, and comments provided by interested parties, the Department preliminarily determines that ten companies under review, Highpoint Trading, Ltd., Federal Tire (Jiangxi), Ltd., Federal Corporation, Weihai Ping'an Tyre Co., Ltd., Qingdao Free Trade Zone Full-World International Trading Co., Ltd., Seatex PTE. Ltd., Wendeng Sanfeng Tyre Co., Ltd., Shandong Hawk International Rubber Industry Co., Ltd., Qingdao Honghua Tyre Factory (Honghua), and Zenith Holding (HK) Limited each had no shipments during the POR. For additional information regarding this determination, *see* the Preliminary Decision Memorandum.

Consistent with an announced refinement to its assessment practice in non-market economy (NME) cases, the Department is not rescinding this review, in part, but intends to complete the review with respect to the companies for which it has preliminarily found no shipments and issue appropriate instructions to CBP based on the final results of the review.[2]

Partial Rescission of Administrative Review

Pursuant to 19 CFR 351.213(d)(1), the Department will rescind an administrative review, in whole or in part, if the party or parties that requested a review withdraws the request within 90 days of the publication date of the notice of initiation of the requested review. The United Steel, Paper and Forestry, Rubber, Manufacturing, Energy, Allied Industrial and Service Workers International Union, AFL–CIO, CLC (the petitioner) and Cooper withdrew their requests for an administrative review with respect to Cooper within 90 days of the publication date of the notice of initiation. No other parties requested an administrative review of the order with respect to Cooper. Therefore, in accordance with 19 CFR 351.213(d)(1), the Department is rescinding this review of the AD order on passenger tires from the PRC with respect to Cooper.

Preliminary Affiliation and Single Entity Determination

The Department continues to find that Giti and the following four companies are affiliated pursuant to section 771(33)(E) of the Tariff Act of 1930, as amended (the Act), and should be treated as a single entity pursuant to 19 CFR 351.401(f): Giti Tire (USA) Ltd. (Giti USA), Giti Radial Tire (Anhui) Company Ltd. (Giti Anhui), Giti Tire (Fujian) Company Ltd. (Giti Fujian), and Giti Tire (Hualin) Company Ltd. (Giti Hualin) (collectively Giti). This preliminary finding is based on record evidence showing that the facts and analysis relied upon by the Department in the investigation of passenger tires from the PRC continue to be applicable during the instant POR. For additional information, *see* Preliminary Decision Memorandum at the ''Single Entity Treatment'' section.

Based on information on the record of the instant review, the Department preliminarily finds that Sentury, Sentury Tire USA Inc (Sentury USA), and Sentury (Hong Kong) Trading Co., Limited (Sentury HK) are affiliated pursuant to section 771(33)(E) of the Act, and should be treated as a single entity pursuant to 19 CFR 351.401(f).[3]

Separate Rates

The Department preliminarily determines that the information placed on the record by Giti and Sentury, as well as by the other companies listed in the rate table in the ''Preliminary Results of Review'' section below, demonstrates that these companies are entitled to separate rate status. The Department calculated weighted-average dumping margins for Giti and Sentury, and consistent with our practice, calculated a rate for the companies to which it granted separate rate status, but which it did not individually examine, based on publicly ranged sales values reported by Giti and Sentury.[4]

In addition, the Department preliminarily determines that certain companies have not demonstrated their entitlement to separate rate status because, (1) they withdrew their participation from the administrative review; or (2) they did not rebut the presumption of *de jure* or *de facto* government control of their operations. *See* Appendix 2 of this **Federal Register** notice for a complete list of companies not receiving a separate rate. In addition, five companies: Poplar Tire International Co. Ltd.; Qingdao Yongdao International Trade Co. Ltd.; Shandong Hongsheng Rubber Co. Ltd.; Shandong Xinghongyuan Tyre Co. Ltd; and Shanghai Durotyre International Trading Co. Ltd., filed separate rate applications even though an administrative review was not requested for or initiated on their behalf. Because these companies are not subject to this review, the Department is not considering their applications for separate-rate status.

The Department is treating the companies for which it did not grant separate rate status as part of the PRC-wide entity. Because no party requested a review of the PRC-wide entity, the entity is not under review, and the entity's rate (*i.e.,* 87.99 percent)[5] is not subject to change.[6]

Methodology

The Department conducted this review in accordance with section 751(a)(1)(B) of the Act. The Department preliminarily determines that Giti's and Sentury's reported U.S. sales were either export price (EP) or constructed export price (CEP). We calculated EP and CEP sales in accordance with section 772 of the Act. Given that the PRC is an NME country, within the meaning of section 771(18) of the Act, the Department calculated NV in accordance with section 773(c) of the Act.

For a full description of the methodology underlying the preliminary results of this review, *see* the Preliminary Decision Memorandum, which is hereby adopted by this notice. The Preliminary Decision Memorandum is a public document and is made available to the public *via* Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). ACCESS is available to registered users at *http://access.trade.gov,* and is available to all parties in the Central Records Unit, Room B8024 of the main Department of Commerce building. In addition, a complete version of the Preliminary Decision Memorandum can be found at *http://enforcement.trade.gov/frn/.* The signed and the electronic versions of the Preliminary Decision Memorandum are identical in content. A list of topics

[2] *See Non-Market Economy Antidumping Proceedings: Assessment of Antidumping Duties,* 76 FR 65694, 65694–95 (October 24, 2011) and the ''Assessment Rates'' section, below.

[3] *See* the Preliminary Decision Memorandum at ''Single Entity Treatment;'' *see also* Memorandum, ''Preliminary Analysis Memorandum for Qingdao Sentury Tire Co., Ltd.'' (Sentury Preliminary Analysis Memorandum) (August 31, 2017) at ''Single Entity Analysis'' section.

[4] *See* Memorandum, ''Certain Passenger Vehicle and Light Truck Tires from the People's Republic of China: Preliminary Calculation of the Margin for Respondents Not Selected for Individual Examination,'' (August 31, 2016) (Preliminary Separate Rate Calculation Memorandum); *see also* Preliminary Decision Memorandum at 16–17.

[5] *See Certain Passenger Vehicle and Light Truck Tires from the People's Republic of China: Amended Final Affirmative Antidumping Duty Determination and Antidumping Duty Order; and Amended Final Affirmative Countervailing Duty Determination and Countervailing Duty Order,* 80 FR 47902, 47906 (August 10, 2015) (*Order*).

[6] For additional information regarding the Department's separate rate determinations, *see* the Preliminary Decision Memorandum.

included in the Preliminary Decision Memorandum is provided in Appendix 1 to this notice.

Adjustments for Countervailable Subsidies

The Department has preliminarily granted Giti and the separate rate recipients an adjustment for countervailable domestic subsidies pursuant to section 777A(f) of the Act. In addition, the Department preliminarily finds that Sentury does not qualify for an adjustment for countervailable domestic subsidies.

Preliminary Results of Review

The Department preliminarily determines that the following weighted-average dumping margins exist for the POR:

Exporter	Weighted-average dumping margin (percent)
Giti Tire Global Trading Pte. Ltd./Giti Tire (USA) Ltd./Giti Tire (Anhui) Company Ltd./Giti Tire (Fujian) Company Ltd./Giti Tire (Hualin) Company Ltd	13.39
Qingdao Sentury Tire Co., Ltd./Sentury Tire USA Inc./Sentury (Hong Kong) Trading Co., Limited	11.28
Actyon Tyre Resources Co., Limited	12.92
Shandong Anchi Tyres Co., Ltd	12.92
Briway Tire Co., Ltd	12.92
Shandong Changfeng Tyres Co., Ltd	12.92
Qingdao Crown Chemical Co., Ltd	12.92
Crown International Corporation	12.92
Qingzhou Detai International Trading Co., Ltd	12.92
Shandong Duratti Rubber Corporation Co. Ltd	12.92
Shouguang Firemax Tyre Co., Ltd	12.92
Fleming Limited	12.92
Qingdao Fullrun Tyre Corp., Ltd	12.92
Qingdao Fullrun Tyre Tech Corp., Ltd	12.92
Guangrao Taihua International Trade Co., Ltd	12.92
Shandong Guofeng Rubber Plastics Co., Ltd	12.92
Hankook Tire China Co., Ltd	12.92
Haohua Orient International Trade Ltd	12.92
Shandong Hengyu Science & Technology Co., Ltd	12.92
Hongkong Tiancheng Investment & Trading Co., Limited	12.92
Hongtyre Group Co	12.92
Jiangsu Hankook Tire Co., Ltd	12.92
Jinyu International Holding Co., Limited	12.92
Qingdao Jinhaoyang International Co., Ltd	12.92
Jilin Jixing Tire Co., Ltd	12.92
Kenda Rubber (China) Co., Ltd	12.92
Qingdao Keter International Co., Limited	12.92
Koryo International Industrial Limited	12.92
Kumho Tire Co., Inc	12.92
Qingdao Lakesea Tyre Co., Ltd	12.92
Liaoning Permanent Tyre Co., Ltd	12.92
Shandong Longyue Rubber Co., Ltd	12.92
Macho Tire Corporation Limited	12.92
Maxon Int'l Co., Limited	12.92
Mayrun Tyre (Hong Kong) Limited	12.92
Qingdao Nama Industrial Co., Ltd	12.92
Nankang (Zhangjiagang Free Trade Zone) Rubber Industrial Co., Ltd	12.92
Shandong New Continent Tire Co., Ltd	12.92
Qingdao Odyking Tyre Co., Ltd	12.92
Prinx Chengshan (Shandong) Tire Co., Ltd	12.92
Riversun Industry Limited	12.92
Roadclaw Tyre (Hong Kong) Limited	12.92
Safe & Well (HK) International Trading Limited	12.92
Sailun Jinyu Group Co., Ltd	12.92
Sailun Jinyu Group (Hong Kong) Co., Limited	12.92
Shandong Jinyu Industrial Co., Ltd	12.92
Sailun Tire International Corp	12.92
Seatex International Inc	12.92
Dynamic Tire Corp	12.92
Husky Tire Corp	12.92
Shandong Province Sanli Tire Manufactured Co., Ltd	12.92
Shandong Linglong Tyre Co., Ltd	12.92
Shandong Yonking Rubber Co., Ltd	12.92
Shandong Shuangwang Rubber Co., Ltd	12.92
Shengtai Group Co., Ltd	12.92
Techking Tires Limited	12.92
Triangle Tyre Co., Ltd	12.92
Tyrechamp Group Co., Limited	12.92
Shandong Wanda Boto Tyre Co., Ltd	12.92
Windforce Tyre Co., Limited	12.92
Winrun Tyre Co., Ltd	12.92
Shandong Yongtai Group Co., Ltd	12.92

Exporter	Weighted-average dumping margin (percent)
Weihai Zhongwei Rubber Co., Ltd	12.92
Shandong Zhongyi Rubber Co., Ltd	12.92
Zhaoqing Junhong Co., Ltd	12.92

Disclosure and Public Comment

The Department intends to disclose to parties the calculations performed for these preliminary results of review within five days of the date of publication of this notice in the **Federal Register** in accordance with 19 CFR 351.224(b). Interested parties may submit case briefs no later than 30 days after the date of publication of these preliminary results of review.[7] Rebuttal briefs may be filed no later than five days after case briefs are due, and may respond only to arguments raised in the case briefs.[8] A table of contents, list of authorities used, and an executive summary of issues should accompany any briefs submitted to the Department. The summary should be limited to five pages total, including footnotes.[9]

Interested parties who wish to request a hearing must submit a written request to the Assistant Secretary for Enforcement and Compliance, U.S. Department of Commerce, within 30 days after the date of publication of this notice.[10] Requests should contain the party's name, address, and telephone number, the number of participants in, and a list of the issues to be discussed at, the hearing. Oral arguments at the hearing will be limited to issues raised in the briefs. If a request for a hearing is made, the Department intends to hold the hearing at the U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230, at a date and time to be determined.[11] Parties should confirm by telephone the date, time, and location of the hearing two days before the scheduled date of the hearing.

All submissions, with limited exceptions, must be filed electronically using ACCESS.[12] An electronically filed document must be received successfully in its entirety by the Department's electronic records system, ACCESS, by 5 p.m. Eastern Time (ET) on the due date. Documents excepted from the electronic submission requirements must be filed manually (*i.e.,* in paper form) with the APO/Dockets Unit in Room 18022 and stamped with the date and time of receipt by 5 p.m. ET on the due date.[13]

Unless otherwise extended, the Department intends to issue the final results of this administrative review, which will include the results of its analysis of issues raised in any briefs, within 120 days of publication of these preliminary results of review, pursuant to section 751(a)(3)(A) of the Act.

Assessment Rates

Upon issuance of the final results of this review, the Department will determine, and CBP shall assess, antidumping duties on all appropriate entries covered by this review.[14] The Department intends to issue assessment instructions to CBP 15 days after the publication date of the final results of this review. For each individually examined respondent in this review whose weighted-average dumping margin in the final results of review is not zero or *de minimis* (*i.e.,* less than 0.5 percent), the Department intends to calculate importer-specific assessment rates, in accordance with 19 CFR 351.212(b)(1).[15] Where the respondent reported reliable entered values, the Department intends to calculate importer-specific *ad valorem* assessment rates by aggregating the amount of dumping calculated for all U.S. sales to the importer, and dividing this amount by the total entered value of the sales to the importer.[16] Where the importer did not report entered values, the Department intends to calculate an importer-specific assessment rate by dividing the amount of dumping for reviewed sales to the importer by the total sales quantity associated with those transactions. Where an importer-specific *ad valorem* assessment rate is not zero or *de minimis,* the Department will instruct CBP to collect the appropriate duties at the time of liquidation. Where either the respondent's weighted average dumping margin is zero or *de minimis,* or an importer-specific *ad valorem* assessment rate is zero or *de minimis,* the Department will instruct CBP to liquidate appropriate entries without regard to antidumping duties.[17]

Pursuant to Departmental practice, for entries that were not reported in the U.S. sales database submitted by an exporter individually examined during this review, the Department will instruct CBP to liquidate such entries at the rate for the PRC-wide entity.[18] Additionally, if the Department determines that an exporter under review had no shipments of the subject merchandise, any suspended entries that entered under that exporter's CBP case number will be liquidated at the rate for the PRC-wide entity.

We are rescinding this review for Cooper. Our normal practice is to instruct CBP to assess antidumping duties at the rates equal to the cash deposit of estimated antidumping duties required at the time of entry, or withdrawal from warehouse for consumption, in accordance with 19 CFR 351.212(c)(1)(i). However, Cooper's entries during the POR are subject to an injunction. We intend to issue the appropriate liquidation instructions once the injunction on Cooper's POR entries has been lifted.

In accordance with section 751(a)(2)(C) of the Act, the final results of this review shall be the basis for the assessment of antidumping duties on POR entries, and for future deposits of estimated antidumping duties, where applicable.

Cash Deposit Requirements

The Department will instruct CBP to require a cash deposit for antidumping duties equal to the weighted-average amount by which NV exceeds U.S. price. The following cash deposit requirements will be effective upon publication of the final results of this administrative review for shipments of the subject merchandise from the PRC entered, or withdrawn from warehouse,

[7] *See* 19 CFR 351.309(c)(ii).

[8] *See* 19 CFR 351.309(d).

[9] *See* 19 CFR 351.309(c)(2), (d)(2).

[10] *See* 19 CFR 351.310(c).

[11] *See* 19 CFR 351.310(d).

[12] *See generally* 19 CFR 351.303.

[13] *See* 19 CFR 351.303 (for general filing requirements); *Antidumping and Countervailing Duty Proceedings: Electronic Filing Procedures; Administrative Protective Order Procedures,* 76 FR 39263 (July 6, 2011).

[14] *See* 19 CFR 351.212(b)(1).

[15] *See Antidumping Proceedings: Calculation of the Weighted Average Dumping Margin and Assessment Rate in Certain Antidumping Proceedings: Final Modification,* 77 FR 8101 (February 14, 2012) (*Final Modification*).

[16] *See* 19 CFR 351.212(b)(1).

[17] *See Final Modification,* 77 FR at 8103.

[18] *See Non-Market Economy Antidumping Proceedings: Assessment of Antidumping Duties,* 76 FR 65694 (October 24, 2011), for a full discussion of this practice.

for consumption on or after the publication date of this notice, as provided by section 751(a)(2)(C) of the Act: (1) For the exporters listed above, the cash deposit rate will be equal to the weighted-average dumping margin established in the final results of this review (except, if the rate is *de minimis* (*i.e.,* less than 0.5 percent), then the cash deposit rate will be zero for that exporter), adjusted, where appropriate, for export subsidies and domestic subsidies passed through; (2) for previously investigated or reviewed PRC and non-PRC exporters not listed above that have separate rates, the cash deposit rate will continue to be the exporter-specific rate published for the most recently completed segment of this proceeding; (3) for all PRC exporters of subject merchandise which have not been found to be entitled to a separate rate, the cash deposit rate will be the rate for the PRC-wide entity (*i.e.,* 76.46 percent) [19] and (4) for all non-PRC exporters of subject merchandise that have not received their own rate, the cash deposit rate will be the rate applicable to the PRC exporter that supplied that non-PRC exporter. These deposit requirements, when imposed, shall remain in effect until further notice.

Notification to Importers

This notice also serves as a preliminary reminder to importers of their responsibility under 19 CFR 351.402(f)(2) to file a certificate regarding the reimbursement of antidumping duties and/or countervailing duties prior to liquidation of the relevant entries during this POR. Failure to comply with this requirement could result in the Department's presumption that reimbursement of antidumping duties and/or countervailing duties has occurred, and the subsequent assessment of double antidumping duties and/or an increase in the amount of antidumping duties by the amount of the countervailing duties.

Notification to Interested Parties

We are issuing and publishing these results in accordance with sections 751(a)(1) and 777(i)(1) of the Act and 19 CFR 351.213 and 351.221(b)(4).

Dated: August 31, 2017.

Gary Taverman,

Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations performing the non-exclusive functions and duties of the Assistant Secretary for Enforcement and Compliance.

Appendix 1

List of Topics Discussed in the Preliminary Decision Memorandum

1. Summary
2. Background
3. Partial Rescission of Administrative Review
4. Scope of the Order
5. Discussion of the Methodology
6. Conclusion

Appendix 2

List of Companies Not Receiving Separate Rate Status

1. American Pacific Industries, Inc.
2. BC Tyre Group Limited
3. Best Choice International Trade Co., Limited
4. Cheng Shin Tire & Rubber (China) Co., Ltd.
5. Guangzhou Pearl River Rubber Tyre Ltd.
6. Haohua Orient International Trade Ltd.
7. Hebei Tianrui Rubber Co., Ltd.
8. Hong Kong Tri-Ace Tire Co., Limited
9. Hwa Fong Rubber (Hong Kong) Ltd.
10. ITG Voma Corporation
11. Nankang (Zhangjiagang Free Trade Zone) Rubber Industrial Co., Ltd.
12. Nankang International Co., Ltd.
13. Nankang Rubber Tire Corp., Ltd.
14. Pirelli Tyre Co., Ltd.
15. Qingdao Goalstar Tire Co., Ltd.
16. Qingdao Nexen Tire Corporation
17. Qingdao Qianzhen Tyre Co., Ltd.
18. Qingdao Qihang Tyre Co., Ltd.
19. Qingdao Qizhou Rubber Co., Ltd.
20. Shandong Changhong Rubber Tech
21. Shandong Good Forged Alum Wheel
22. Shandong Haohua Tire Co., Ltd.
23. Shandong Haolong Rubber Tire Co., Ltd.
24. Shandong Huitong Tyre Co., Ltd.
25. Shandong Sangong Rubber Co., Ltd.
26. Shandong Yongtai Chemical Co., Ltd.[20]
27. Shangong Ogreen International Trade Co., Ltd.
28. Shifeng Juxing Tire Co., Ltd.
29. Southeast Mariner International Co., Ltd.
30. Toyo Tire (Zhangjiagang) Co., Ltd.
31. Wanli Group Trade Limited
32. Xiamen Sunrise Wheel Group Co., Ltd.
33. Xiamen Topu Import
34. Zhejiang Jingu Company Limited
35. Zhejiang Qingda Rubber Co., Ltd.

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[19] *See Order,* 80 FR 47904.

[20] The review was initiated on Shandong Yongtai Group Co., Ltd. (formerly known as Shandong Yongtai Chemical Co., Ltd.); however, the Department only granted the company a separate rate under its current name, Shandong Yongtai Group Co., Ltd.

DEPARTMENT OF COMMERCE

International Trade Administration

[A–489–816]

Certain Oil Country Tubular Goods From Turkey: Preliminary Results of Antidumping Duty Administrative Review; 2015–2016

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: The Department of Commerce (the Department) is conducting an administrative review of the antidumping duty order on certain oil country tubular goods (OCTG) from Turkey. The period of review (POR) is September 1, 2015, through August 31, 2016. The review covers one producer/exporter of the subject merchandise, Toscelik Profil ve Sac Endüstrisi A.Ş. (Toscelik). We preliminarily find that Toscelik has not sold subject merchandise at less than normal value. We invite interested parties to comment on these preliminary results.

DATES: Applicable September 7, 2017.

FOR FURTHER INFORMATION CONTACT: Hermes Pinilla, AD/CVD Operations, Office I, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW., Washington, DC 20230; telephone: (202) 482–3477.

SUPPLEMENTARY INFORMATION:

Scope of the Order

The merchandise covered by the order is certain OCTG. The merchandise subject to the order is currently classified in the Harmonized Tariff Schedule of the United States (HTSUS) under item numbers: 7304.29.10.10, 7304.29.10.20, 7304.29.10.30, 7304.29.10.40, 7304.29.10.50, 7304.29.10.60, 7304.29.10.80, 7304.29.20.10, 7304.29.20.20, 7304.29.20.30, 7304.29.20.40, 7304.29.20.50, 7304.29.20.60, 7304.29.20.80, 7304.29.31.10, 7304.29.31.20, 7304.29.31.30, 7304.29.31.40, 7304.29.31.50, 7304.29.31.60, 7304.29.31.80, 7304.29.41.10, 7304.29.41.20, 7304.29.41.30, 7304.29.41.40, 7304.29.41.50, 7304.29.41.60, 7304.29.41.80, 7304.29.50.15, 7304.29.50.30, 7304.29.50.45, 7304.29.50.60, 7304.29.50.75, 7304.29.61.15, 7304.29.61.30, 7304.29.61.45, 7304.29.61.60, 7304.29.61.75, 7305.20.20.00, 7305.20.40.00, 7305.20.60.00, 7305.20.80.00, 7306.29.10.30, 7306.29.10.90, 7306.29.20.00, 7306.29.31.00, 7306.29.41.00,

7306.29.60.10, 7306.29.60.50, 7306.29.81.10, and 7306.29.81.50.

The merchandise subject to the order may also enter under the following HTSUS item numbers: 7304.39.00.24, 7304.39.00.28, 7304.39.00.32, 7304.39.00.36, 7304.39.00.40, 7304.39.00.44, 7304.39.00.48, 7304.39.00.52, 7304.39.00.56, 7304.39.00.62, 7304.39.00.68, 7304.39.00.72, 7304.39.00.76, 7304.39.00.80, 7304.59.60.00, 7304.59.80.15, 7304.59.80.20, 7304.59.80.25, 7304.59.80.30, 7304.59.80.35, 7304.59.80.40, 7304.59.80.45, 7304.59.80.50, 7304.59.80.55, 7304.59.80.60, 7304.59.80.65, 7304.59.80.70, 7304.59.80.80, 7305.31.40.00, 7305.31.60.90, 7306.30.50.55, 7306.30.50.90, 7306.50.50.50, and 7306.50.50.70.

While the HTSUS subheadings are provided for convenience and customs purposes, the written description is dispositive.[1]

Treatment of Affiliated Parties as a Single Entity

We preliminarily determine that Toscelik and its affiliates, Tosyali Dis Ticaret A.S. (Tosyali), Tosyali Demir Celik A.S. (TDC), Tosyali Holding A.S., Toscelik Granul San A.S., Tosyali Celik Ticaret A.S., Toscelik Spiral Boru Uretim Sanayi A.S., Tosyali Elek. Enerjsi Toptan SAT, A.S., and Tosyali Elek Enerjsi Uretim A.S., are affiliated as defined by section 771(33) of the Tariff Act of 1930, as amended (the Act). In addition, we preliminarily determine that Toscelik and its affiliates, Tosyali, TDC, Toscelik Granul San A.S., Tosyali Celik Ticaret A.S., and Toscelik Spiral Boru Uretim Sanayi A.S., should be treated as a single entity (hereinafter referred to as Toscelik Single Entity) for the purposes of the Department's analysis in this administrative review.[2]

Methodology

The Department is conducting this administrative review in accordance with section 751(a)(2) of the Act. Export price is calculated in accordance with section 772 of the Act. Normal value is calculated in accordance with section 773 of the Act. For a full description of the methodology underlying our conclusions, *see* the Preliminary Decision Memorandum. The Preliminary Decision Memorandum is a public document and is on file electronically *via* Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). ACCESS is available to registered users at *http://access.trade.gov* and to all parties in the Central Records Unit, Room B8024 of the main Department of Commerce building. In addition, a complete version of the Preliminary Decision Memorandum can be accessed directly on the Internet at *http://enforcement.trade.gov/frn/index.html.* A list of the topics discussed in the Preliminary Decision Memorandum is attached as an Appendix to this notice.

Preliminary Results of Review

As a result of this administrative review, we preliminarily determine that the following weighted-average dumping margin exists for the period September 1, 2015, through August 31, 2016:

Producer/exporter	Weighted-average margin
Toscelik Single Entity	0.00 percent

Disclosure

We intend to disclose the calculations performed to parties within five days after public announcement of the preliminary results.[3]

Public Comment

Pursuant to 19 CFR 351.309(c), interested parties may submit case briefs not later than 30 days after the date of publication of this notice. Rebuttal briefs, limited to issues raised in the case briefs, may be filed not later than five days after the date for filing case briefs.[4] Parties who submit case briefs or rebuttal briefs in this proceeding are encouraged to submit with each argument: (1) A statement of the issue, (2) a brief summary of the argument, and (3) a table of authorities.[5] Case and rebuttal briefs should be filed using ACCESS.[6]

Pursuant to 19 CFR 351.310(c), interested parties who wish to request a hearing must submit a written request to the Assistant Secretary for Enforcement and Compliance, filed electronically *via* ACCESS. An electronically filed document must be received successfully in its entirety by the Department's electronic records system, ACCESS, by 5:00 p.m. Eastern Time within 30 days after the date of publication of this notice.[7] Requests should contain: (1) The party's name, address and telephone number; (2) the number of participants; and (3) a list of issues to be discussed. Issues raised in the hearing will be limited to those raised in the respective case briefs. The Department intends to issue the final results of this administrative review, including the results of its analysis of the issues raised in any written briefs, not later than 120 days after the date of publication of this notice, pursuant to section 751(a)(3)(A) of the Act and 19 CFR 351.213(h)(1).

Assessment Rates

Upon completion of the final results, the Department shall determine and U.S. Customs and Border Protection (CBP) shall assess antidumping duties on all appropriate entries. If the Toscelik Single Entity's weighted-average dumping margin is above *de minimis* in the final results of this review, we will calculate an importer-specific assessment rate on the basis of the ratio of the total amount of antidumping duties calculated for the importer's examined sales and the total entered value of the sales in accordance with 19 CFR 351.212(b)(1).[8] If the Toscelik Single Entity's weighted-average dumping margin continues to be zero or *de minimis* in the final results of review, we will instruct CBP not to assess duties on any of its entries in accordance with the *Final Modification for Reviews*.[9]

For entries of subject merchandise during the POR produced by the Toscelik Single Entity for which it did not know its merchandise was destined for the United States, we will instruct CBP to liquidate unreviewed entries at the all-others rate if there is no rate for the intermediate company(ies) involved in the transaction.

We intend to issue liquidation instructions to CBP 15 days after publication of the final results of this review.

Cash Deposit Requirements

The following deposit requirements will be effective upon publication of the

[1] A full description of the scope of the *Order* is contained in the Memorandum, ''Certain Oil Country Tubular Goods from Turkey: Decision Memorandum for Preliminary Results of Antidumping Duty Administrative Review; 2015–2016,'' dated concurrently with and hereby adopted by this notice (Preliminary Decision Memorandum).

[2] *See* Memorandum, ''Certain Oil Country Tubular Goods from Turkey—Collapsing of Toscelik Profil ve Sac Endüstrisi A.Ş, Toscelik Profil ve Sac Endüstrisi A.S., and affiliated companies,'' dated concurrently with this notice.

[3] *See* 19 CFR 351.224(b).

[4] *See* 19 CFR 351.309(d).

[5] *See* 19 CFR 351.309(c)(2) and (d)(2).

[6] *See* 19 CFR 351.303.

[7] *See* 19 CFR 351.310(c).

[8] In these preliminary results, the Department applied the assessment rate calculation method adopted in *Antidumping Proceedings: Calculation of the Weighted-Average Dumping Margin and Assessment Rate in Certain Antidumping Duty Proceedings; Final Modification,* 77 FR 8101 (February 14, 2012) (*Final Modification for Reviews*).

[9] *See Final Modification for Reviews,* 77 FR at 8102.

notice of final results of this review for all shipments of OCTG from Turkey entered, or withdrawn from warehouse, for consumption on or after the date of publication as provided by section 751(a)(2) of the Act: (1) The cash deposit rate for the Toscelik Single Entity will be the rate established in the final results of this administrative review; (2) for merchandise exported by manufacturers or exporters not covered in this review but covered in a prior segment of the proceeding, the cash deposit rate will continue to be the company-specific rate published for the most recent period; (3) if the exporter is not a firm covered in this review, a prior review, or the original investigation but the manufacturer is, the cash deposit rate will be the rate established for the most recent period for the manufacturer of the merchandise; (4) the cash deposit rate for all other manufacturers or exporters will continue to be 35.86 percent,[10] the all-others rate established in the less-than-fair-value investigation. These cash deposit requirements, when imposed, shall remain in effect until further notice.

Notification to Importers

This notice serves as a preliminary reminder to importers of their responsibility under 19 CFR 351.402(f)(2) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this POR. Failure to comply with this requirement could result in the Department's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

Notification to Interested Parties

The Department is issuing and publishing these results in accordance with sections 751(a)(1) of the Act and 19 CFR 351.221(1)(b)(4).

Dated: August 31, 2017.

Gary Taverman,

Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, performing the non-exclusive functions and duties of the Assistant Secretary for Enforcement and Compliance.

[10] *See Certain Oil Country Tubular Goods from India, the Republic of Korea, Taiwan, the Republic of Turkey, and the Socialist Republic of Vietnam: Antidumping Duty Orders; and Certain Oil Country Tubular Goods from the Socialist Republic of Vietnam: Amended Final Determination of Sales at Less Than Fair Value,* 79 FR 53691, 53693 (September 10, 2014).

Appendix

List of Topics Discussed in the Preliminary Decision Memorandum

Summary
Background
Scope of the Order
Treatment of Affiliated Parties as a Single Entity
Discussion of the Methodology Comparisons to Normal Value
A. Determination of Comparison Method
B. Results of Differential Pricing Analysis
Product Comparisons
Date of Sale
Export Price
Normal Value
A. Home-Market Viability and Comparison Market
B. Level of Trade
C. Calculation of Normal Value Based on Contructed Value
D. Cost of Production
Currency Conversion
Recommendation

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DEPARTMENT OF COMMERCE

International Trade Administration

[C–570–017]

Certain Passenger Vehicle and Light Truck Tires From the People's Republic of China: Preliminary Results of Countervailing Duty Administrative Review and Rescission, in Part; 2014–2015

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: The Department of Commerce (the Department) preliminarily determines that countervailable subsidies are being provided to producers and exporters of passenger vehicle and light truck tires (passenger tires) from the People's Republic of China (PRC). The period of review (POR) is December 1, 2014, through December 31, 2015. Interested parties are invited to comment on these preliminary results.

DATES: Applicable September 7, 2017.

FOR FURTHER INFORMATION CONTACT: Andrew Huston, AD/CVD Operations, Office VII, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW., Washington, DC 20230; telephone: (202) 482–4261.

SUPPLEMENTARY INFORMATION:

Background

On August 10, 2015, the Department issued a countervailing duty (CVD) order on passenger tires from the PRC.[1] Several interested parties requested that the Department conduct an administrative review of the countervailing duty order, and on October 14, 2016, the Department published in the **Federal Register** a notice of initiation of an administrative review of the *CVD Order* for 61 producers/exporters for the POR.[2]

Scope of the Order

The products covered by the order are certain passenger vehicle and light truck tires from the PRC. A full description of the scope of the order is contained in the Preliminary Decision Memorandum.[3]

Methodology

The Department is conducting this CVD review in accordance with section 751(a)(1)(A) of the Tariff Act of 1930, as amended (the Act). For each of the subsidy programs found countervailable, we determine that there is a subsidy, *i.e.,* a financial contribution by an ''authority'' that confers a benefit to the recipient, and that the subsidy is specific.[4] For a full description of the methodology underlying our preliminary conclusions, including our reliance, in part, on adverse facts available pursuant to sections 776(a) and (b) of the Act, *see* the Preliminary Decision Memorandum.[5] The Preliminary Decision Memorandum is a public document and is on file electronically via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). ACCESS is available to registered users at *http://access.trade.gov,* and is available to all parties in the Central Records Unit, Room 7046 of the main Department of Commerce building. In addition, a

[1] *See Certain Passenger Vehicle and Light Truck Tires from the People's Republic of China: Amended Final Affirmative Antidumping Duty Determination and Antidumping Duty Order; and Amended Final Affirmative Countervailing Duty Determination and Countervailing Duty Order,* 80 FR 47902 (August 10, 2015) (*CVD Order*).

[2] *See Initiation of Antidumping and Countervailing Duty Administrative Reviews,* 81 FR 71061 (October 14, 2016). (*Initiation Notice*).

[3] *See* ''Decision Memorandum for the Preliminary Results of the Administrative Review of the Countervailing Duty Order on Certain Passenger Vehicle and Light Truck Tires from the People's Republic of China; 2014–2015,'' dated concurrently with this notice (Preliminary Decision Memorandum) and hereby adopted by this notice.

[4] *See* sections 771(5)(B) and (D) of the Act regarding financial contribution; section 771(5)(E) of the Act regarding benefit; and, section 771(5A) of the Act regarding specificity.

[5] A list of topics discussed in the Preliminary Decision Memorandum can be found as an appendix to this notice.

complete version of the Preliminary Decision Memorandum can be accessed directly on the Internet at *http://enforcement.trade.gov/frn/index.html.* The signed Preliminary Decision Memorandum and the electronic versions of the Preliminary Decision Memorandum are identical in content.

Partial Rescission of Administrative Review

Pursuant to 19 CFR 351.213(d)(1), the Department will rescind an administrative review, in whole or in part, if the parties that requested a review withdraw the request within 90 days of the date of publication of the notice of initiation. Sailun Jinyu Group Co., Ltd., Sailun Jinyu Group (Hong Kong) Co., Limited; Sailun Tire International Corp., Seatex International Inc., Jinyu International Holding Co., Limited, Husky Tire Corp., Dynamic Tire Corp., Shandong Jinyu Industrial Co., Ltd., Qingdao Jinhaoyang International Co., Ltd., Guangzhou Pearl River Rubber Tyre Ltd., Best Choice International Trade Co. Limited, Winrun Tyre Co., Ltd., and Shandong Wanda Boto Tyre Co., Ltd. timely withdrew their requests for review.[6] No other party requested a review of these producers/exporters. Therefore, in accordance with 19 CFR 351.213(d)(1), the Department is rescinding this review of the CVD order on passenger tires from the PRC with respect to these companies.

Preliminary Results of Review

As a result of this review, we preliminarily determine the countervailable subsidy rates to be:

Company	Subsidy rate (percent)
GITI Tire Global Trading Pte. Ltd./GITI Tire (USA) Ltd./GITI Radial Tire (Anhui) Company Ltd. (GITI Anhui Radial)/GITI Tire (Fujian) Company Ltd (GITI Fujian)./GITI Tire (Hualin) Company Ltd.(GITI Hualin) (collectively, GITI)	25.12
Cooper (Kunshan) Tire Co., Ltd. (Cooper)	14.56
Zhongce Rubber Group Company Limited	89.78
Non Selected Companies Under Review	19.84

Preliminary Rate for the Non-Selected Companies Under Review

The statute and the Department's regulations do not directly address the establishment of rates to be applied to companies not selected for individual examination where the Department limits its examination in an administrative review pursuant to section 777A(e)(2) of the Act. However, the Department normally determines the rates for non-selected companies in reviews in a manner that is consistent with section 705(c)(5) of the Act, which provides instructions for calculating the all-others rate in an investigation.

Section 705(c)(5)(A)(i) of the Act instructs the Department as a general rule to calculate an all others rate using the weighted average of the subsidy rates established for the producers/exporters individually examined, excluding any zero, *de minimis,* or rates based entirely on facts available. In this review, the preliminary subsidy rates calculated for GITI and Cooper and their cross-owned affiliates are above *de minimis* and are not based entirely on facts available. Therefore, for the companies for which a review was requested that were not selected as mandatory company respondents and for which we did not receive a timely request for withdrawal of review, with the exception of Zhongce Rubber Group Limited, and which we are not finding to be cross-owned with the mandatory company respondents, we are preliminarily basing the subsidy rate on the subsidy rate calculated for GITI and Cooper. For a list of these non-selected companies, please see Appendix II to this notice.

Disclosure and Public Comment

The Department intends to disclose to interested parties the calculations performed in connection with this preliminary determination within five days of publication of this notice in the **Federal Register**.[7] Interested parties may submit case and rebuttal briefs, as well as request a hearing.[8] Interested parties may submit written comments (case briefs) within 30 days of publication of the preliminary results and rebuttal comments (rebuttal briefs) within five days after the time limit for filing case briefs.[9] Rebuttal briefs must be limited to issues raised in the case briefs.[10] Parties who submit case or rebuttal briefs are requested to submit with the argument: (1) A statement of the issue; (2) a brief summary of the argument; and (3) a table of authorities.[11]

Interested parties who wish to request a hearing must do so within 30 days of publication of these preliminary results by submitting a written request to the Assistant Secretary for Enforcement and Compliance, U.S. Department of Commerce, using Enforcement and Compliance's ACCESS system.[12] Requests should contain the party's name, address, and telephone number, the number of participants, and a list of the issues to be discussed. If a request for a hearing is made, we will inform parties of the scheduled date for the hearing which will be held at the U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230, at a time and location to be determined.[13] Parties should confirm by telephone the date, time, and location of the hearing. Issues addressed at the hearing will be limited to those raised in the briefs.[14] All briefs and hearing requests must be filed electronically and received successfully

[6] *See* Letter to the Secretary from Sailun Jinyu Group Co. Ltd., ''Sailun Group Withdrawal of CVD Review Request: 1st Administrative Review of Countervailing Duty Order on Certain Passenger Vehicle and Light Truck Tires from the People's Republic of China,'' (December 15, 2016); Letter to the Secretary from Qingdao Jinhaoyang International Co., Ltd., ''Jinhaoyang's Withdrawal of CVD Review Request (POR1): Certain Passenger Vehicle and Light Truck Tires from China,'' (January 11, 2017); Letter to the Secretary from Guangzhou Pearl River Rubber Tyre Ltd., ''Certain Passenger Vehicle and Light Truck Tires from the People's Republic of China—Withdrawal of Request for Administrative Review,'' January 12, 2017; Letter to the Secretary from Best Choice International Trade Co., ''Certain Passenger Vehicle and Light Truck Tires from the People's Republic of China—Withdrawal of Request for Administrative Review,'' January 12, 2017; Letter to the Secretary from Winrun Tyre Co., Ltd., ''Winrun's Withdrawal of CVD Review Request (POR1): Certain Passenger Vehicle and Light Truck Tires,'' (January 12, 2017); Letter to the Secretary from ITG Voma Corporation, ''Passenger Vehicle and Light Truck Tires from the People's Republic of China: Withdrawal of Request for Administrative Review,'' (January 12, 2017); Letter to the Secretary from Shandong Wanda Boto Tyre Co., Ltd, ''Passenger Vehicle and Light Truck Tires from the People's Republic of China: Withdrawal of Request for Administrative Review,'' (January 12, 2017).

[7] *See* 19 CFR 351.224(b).

[8] *See* 19 CFR 351.309(c)–(d), 19 CFR 351.310(c).

[9] *See* 19 CFR 351.309(c)(l)(ii) and 351.309(d)(l).

[10] *See* 19 CFR 351.309(d)(2).

[11] *See* 19 CFR 351.309(c)(2) and (d)(2).

[12] *See* 19 CFR 351.310(c).

[13] *See* 19 CFR 351.310.

[14] *See* 19 CFR 351.310(c).

in their entirety through ACCESS by 5:00 p.m. Eastern Time on the due date.

Unless the deadline is extended pursuant to section 751(a)(3)(A) of the Act, we intend to issue the final results of this administrative review, including the results of our analysis of the issues raised by the parties in their comments, within 120 days after issuance of these preliminary results.

Assessment Rates and Cash Deposit Requirement

In accordance with 19 CFR 351.221(b)(4)(i), we preliminarily assigned subsidy rates in the amounts shown above for the producers/exporters shown above. Upon issuance of the final results, the Department shall determine, and U.S. Customs and Border Protection (CBP) shall assess, CVDs on all appropriate entries covered by this review. We intend to issue instructions to CBP 15 days after publication of the final results of review. For companies for which this review is rescinded, the Department will instruct CBP to assess countervailing duties on all appropriate entries at a rate equal to the cash deposit of estimated countervailing duties required at the time of entry, or withdrawal from warehouse, for consumption, during the period December 1, 2014, through December 31, 2015, in accordance with 19 CFR 351.212(c)(l)(i). The Department intends to issue appropriate assessment instructions directly to CBP 15 days after publication of this notice.

Pursuant to section 751(a)(2)(C) of the Act, the Department also intends to instruct CBP to collect cash deposits of estimated CVDs, in the amounts shown above for each of the respective companies shown above, on shipments of subject merchandise entered, or withdrawn from warehouse, for consumption on or after the date of publication of the final results of this review. For all non-reviewed firms, we will instruct CBP to continue to collect cash deposits at the most-recent company-specific or all-others rate applicable to the company, as appropriate. These cash deposit requirements, when imposed, shall remain in effect until further notice.

These preliminary results are issued and published in accordance with sections 751(a)(1) and 777(i)(1) of the Act, and 19 CFR 351.221(b)(4).

Dated: August 31, 2017.

Gary Taverman,

Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, performing the non-exclusive functions and duties of the Assistant Secretary for Enforcement and Compliance.

Appendix I

List of Topics Discussed in the Preliminary Decision Memorandum

I. Summary
II. Background
III. Partial Rescission of Review
IV. Non-Selected Companies Under Review
V. Scope of the Order
VI. Application of the Countervailing Duty Law to Imports from the PRC
VII. Diversification of the PRC's Economy
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IX. Interest Rate Benchmarks, Discount Rates, Input, and Electricity Benchmarks
X. Use of Facts Otherwise Available and Application of Adverse Inferences
XI. Analysis of Programs
XII. Disclosure and Public Comment
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Appendix II

Non-Selected Companies Under Review

1. American Pacific Industries, Inc.
2. BC Tyre Group Limited
3. Crown International Corporation
4. Fleming Limited
5. Guangrao Taihua International Trade Co., Ltd.
6. Haohua Orient International Trade Ltd.
7. Hong Kong Tiancheng Investment & Trading Co., Limited
8. Jilin Jixing Tire Co., Ltd.
9. Kenda Rubber (China) Co., Ltd.
10. Liaoning Permanent Tyre Co., Ltd.
11. Macho Tire Corporation Limited
12. Maxon Int'l Co., Limited
13. Qingdao Crown Chemical Co., Ltd.
14. Qingdao Goalstar Tire Co., Ltd.
15. Qingdao Keter International Co., Limited
16. Qingdao Lakesea Tyre Co., Ltd.
17. Qingdao Nama Industrial Co., Ltd.
18. Qingdao Odyking Tyre Co., Ltd.
19. Qingdao Sentury Tire Co., Ltd.
20. Qingzhou Detai International Trading Co., Ltd.
21. Riversun Industry Limited
22. Safe&Well (HK) International Trading Limited
23. Shandong Anchi Tyres Co., Ltd.
24. Shandong Changhong Rubber Technology Co., Ltd.
25. Shandong Guofeng Rubber Plastics Co., Ltd.
26. Shandong Haohua Tire Co., Ltd.
27. Shandong Hawk International Rubber Industry Co., Ltd.
28. Shandong Hengyu Science & Technology Co., Ltd.
29. Shandong Linglong Tyre Co., Ltd.
30. Shandong Longyue Rubber Co., Ltd.
31. Shandong New Continent Tire Co., Ltd.
32. Shandong Province Sanli Tire Manufactured Co., Ltd.
33. Shandong Yongtai Group Co., Ltd. (formerly known as Shandong Yongtai Chemical Co., Ltd.)
34. Shandong Zhongyi Rubber Co., Ltd.
35. Shangong Shuangwang Rubber Co., Ltd.
36. Shengtai Group Co., Ltd.
37. Shouguang Firemax Tyre Co., Ltd.
38. Southeast Mariner International Co., Ltd.
39. Tyrechamp Group Co., Limited
40. Windforce Tyre Co., Limited
41. Zhaoqing Junhong Co., Ltd.

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DEPARTMENT OF COMMERCE

International Trade Administration

[A–580–867]

Large Power Transformers From the Republic of Korea: Preliminary Results of Antidumping Duty Administrative Review; 2015–2016

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: The Department of Commerce (the Department) is conducting an administrative review of the antidumping duty order on large power transformers (LPTs) from the Republic of Korea (Korea). The period of review is August 1, 2015, through July 31, 2016. The review covers five producers/exporters of the subject merchandise. We preliminarily determine that Hyosung Corporation (Hyosung) and Hyundai Heavy Industries Co., Ltd. (Hyundai), the two companies selected for individual examination, sold subject merchandise in the United States at prices below normal value during the period of review. Interested parties are invited to comment on these preliminary results.

DATES: Applicable September 7, 2017.

FOR FURTHER INFORMATION CONTACT: Moses Song or John Drury, AD/CVD Operations, Office VI, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW., Washington, DC 20230; telephone: (202) 482–5041 or (202) 482–0195, respectively.

SUPPLEMENTARY INFORMATION:

Background

The Department initiated this review on October 14, 2016.[1] We selected two mandatory respondents in this review,

[1] *See Initiation of Antidumping and Countervailing Duty Administrative Reviews,* 81 FR 71061 (October 14, 2016) (*Initiation Notice*); *see also Initiation of Antidumping and Countervailing Duty Administrative Reviews,* 81 FR 78778, 78781 (November 9, 2016) (*Amended Initiation Notice*). We issued an amended **Federal Register** initiation notice on November 9, 2016, to reflect one company name that was missing from the October 14, 2016 *Initiation Notice.*

Hyosung and Hyundai. For a more detailed description of the events that followed the initiation of this review, *see* the Preliminary Decision Memorandum, dated concurrently with these results and hereby adopted by this notice.[2]

The Preliminary Decision Memorandum is a public document and is on file electronically *via* Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). Access to ACCESS is available to registered users at *http://access.trade.gov* and is available to all parties in the Central Records Unit, Room B8024 of the main Department of Commerce building. In addition, a complete version of the Preliminary Decision Memorandum can be accessed directly on the Internet at *http://enforcement.trade.gov/frn/index.html.* A list of topics discussed in the Preliminary Decision Memorandum is attached as an Appendix to this notice. The signed Preliminary Decision Memorandum and the electronic versions of the Preliminary Decision Memorandum are identical in content.

Scope of the Order

The scope of this order covers large liquid dielectric power transformers having a top power handling capacity greater than or equal to 60,000 kilovolt amperes (60 megavolt amperes), whether assembled or unassembled, complete or incomplete. The merchandise subject to the order is currently classified in the Harmonized Tariff Schedule of the United States at subheadings 8504.23.0040, 8504.23.0080 and 8504.90.9540. This tariff classification is provided for convenience and Customs purposes; however, the written description of the scope of the order is dispositive.[3]

Methodology

The Department is conducting this review in accordance with section 751(a)(2) of the Tariff Act of 1930, as amended (the Act). For a full description of the methodology underlying our conclusions, *see* the Preliminary Decision Memorandum.

Facts Available

Pursuant to section 776(a) of the Act, the Department is preliminarily relying upon facts otherwise available to assign an estimated weighted-average dumping margin to the mandatory respondents in this review because both respondents withheld necessary information that was requested by the Department, thereby significantly impeding the conduct of the review. Further, the Department preliminarily determines that these mandatory respondents failed to cooperate by not acting to the best of their abilities to comply with requests for information and, thus, the Department is applying adverse facts available (AFA) to the respondents, in accordance with section 776(b) of the Act. For a full description of the methodology underlying our conclusions regarding the application of AFA, *see* the Preliminary Decision Memorandum.

Rate for Non-Selected Companies

In accordance with the U.S. Court of Appeals for the Federal Circuit's decision in *Albemarle Corp.* v. *United States,*[4] we are applying to the non-selected companies the rate preliminarily applied to Hyosung and Hyundai in this administrative review.[5] This is the only rate determined in this review for individual respondents and, thus, should be applied to the three non-selected companies under section 735(c)(5)(B) of the Act. For a detailed discussion, *see* the Preliminary Decision Memorandum.

Preliminary Results of Review

We preliminarily determine that, for the period August 1, 2015, through July 31, 2016, the following weighted-average dumping margins exist:[6]

Producer/exporter	Weighted-average dumping margin (percent)
Hyosung Corporation	60.81
Hyundai Heavy Industries Co., Ltd	60.81
Iljin Electric Co., Ltd	60.81
Iljin	60.81
LSIS Co., Ltd	60.81

Disclosure and Public Comment

Normally, the Department discloses the calculations performed in connection with preliminary results to interested parties within five days after the date of publication of this notice.[7] Because the Department preliminarily applied total AFA to each of the mandatory respondents in this review, in accordance with section 776 of the Act, there are no calculations to disclose.

Interested parties may submit case briefs no later than 30 days after the date of publication of this notice.[8] Rebuttal briefs, the content of which is limited to the issues raised in the case briefs, must be filed within five days from the deadline date for the submission of case briefs.[9] Parties who submit case or rebuttal briefs in this proceeding are requested to submit with each argument: (1) A statement of the issue; (2) a brief summary of the argument; and (3) a table of authorities.[10] Case and rebuttal briefs should be filed using ACCESS.[11] Case and rebuttal briefs must be served on interested parties.[12] Executive summaries should be limited to five pages total, including footnotes.

Pursuant to 19 CFR 351.310(c), interested parties who wish to request a hearing must submit a written request to the Assistant Secretary for Enforcement and Compliance within 30 days of the date of publication of this notice. Requests should contain: (1) The party's name, address and telephone number; (2) the number of participants; and (3) a list of issues parties intend to discuss. Issues raised in the hearing will be limited to those raised in the respective case and rebuttal briefs. If a request for a hearing is made, the Department intends to hold the hearing at the U.S. Department of Commerce, 1401 Constitution Avenue NW., Washington,

[2] *See* Memorandum to Gary Taverman, Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, performing the non-exclusive functions and duties of the Assistant Secretary for Enforcement and Compliance, from James Maeder, Senior Director, performing the duties of Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, entitled ''Decision Memorandum for Preliminary Results of Antidumping Duty Administrative Review: Large Power Transformers from the Republic of Korea; 2015–2016'' (Preliminary Decision Memorandum), dated concurrently with this notice.

[3] The full text of the scope of the order is contained in Preliminary Decision Memorandum.

[4] *See Albemarle Corp.* v. *United States,* 821 F.3d 1345 (Fed. Cir. 2016).

[5] *See, e.g., Certain Small Diameter Carbon and Alloy Seamless Standard, Line, and Pressure Pipe (Under 4½ Inches) from Japan: Preliminary Results of Antidumping Duty Administrative Review and Preliminary Determination of No Shipments; 2014–2015,* 81 FR 45124, 45124 (July 12, 2016), unchanged in *Certain Small Diameter Carbon and Alloy Seamless Standard, Line, and Pressure Pipe (Under 4½ Inches) from Japan: Final Results of Antidumping Duty Administrative Review and Final Determination of No Shipments; 2014–2015,* 81 FR 80640, 80641 (November 16, 2016).

[6] As AFA, we preliminarily assign Hyosung and Hyundai a dumping margin of 60.81 percent, an AFA rate used in the previous review. *See Large Power Transformers from the Republic of Korea: Final Results of Antidumping Duty Administrative Review; 2014–2015,* 82 FR 13432 (March 13, 2017). This rate achieves the purpose of applying an adverse inference, *i.e.,* it is sufficiently adverse to ensure that the uncooperative party does not obtain a more favorable result by failing to cooperate than if it had fully cooperated. According to 776(c)(2) of the Act, this rate does not require corroboration.

[7] *See* 19 CFR 351.224(b).

[8] *See* 19 CFR 351.309(c)(1)(ii).

[9] *See* 19 CFR 351.309(d)(1) and (2).

[10] *See* 19 CFR 351.309(c)(2).

[11] *See generally* 19 CFR 351.303.

[12] *See* 19 CFR 351.303(f).

DC 20230, at a date and time to be determined.[13] Parties should confirm the date, time, and location of the hearing two days before the scheduled date.

The Department intends to publish the final results of this administrative review, including the results of its analysis of issues raised in any case or rebuttal brief, no later than 120 days after publication of these preliminary results, unless extended.[14]

Assessment Rates

Upon completion of this administrative review, the Department shall determine, and Customs and Border Protection (CBP) shall assess, antidumping duties on all appropriate entries. If the preliminary results are unchanged for the final results, we will instruct CBP to apply an *ad valorem* assessment rate of 60.81 percent to all entries of subject merchandise during the period of review which were produced and/or exported by Hyosung, Hyundai, and the aforementioned companies which were not selected for individual examination.[15] We intend to issue liquidation instructions to CBP 15 days after publication of the final results of this review.

Cash Deposit Requirements

The following cash deposit requirements will be effective upon publication of the final results of this administrative review for all shipments of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the publication date of the final results of this administrative review, as provided by section 751(a)(2)(C) of the Act: (1) The cash deposit rate for Hyosung and Hyundai and other companies listed above will be equal to the weighted-average dumping margin established in the final results of this administrative review; (2) for previously reviewed or investigated companies not listed above, the cash deposit rate will continue to be the company-specific rate published for the most recently completed segment of this proceeding in which they were reviewed; (3) if the exporter is not a firm covered in this review, a prior review, or in the investigation but the producer is, the cash deposit rate will be the rate established for the most recently completed segment of this proceeding for the producer of the merchandise; and (4) the cash deposit rate for all other producers or exporters will continue to be the all-others rate of 22.00 percent, the rate established in the investigation of this proceeding.[16] These cash deposit requirements, when imposed, shall remain in effect until further notice.

Notification to Importers

This notice also serves as a reminder to importers of their responsibility under 19 CFR 351.402(f)(2) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Department's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

Notification to Interested Parties

We are issuing and publishing this notice in accordance with sections 751(a)(1) and 777(i)(1) of the Act.

Dated: August 31, 2017.

Gary Taverman,

Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, performing the non-exclusive functions and duties of the Assistant Secretary for Enforcement and Compliance.

Appendix

List of Topics Discussed in the Preliminary Decision Memorandum

I. Summary
II. Background
III. Scope of the Order
IV. Application of Facts Available and Use of Adverse Inference
  A. Application of Facts Available
  B. Use of Adverse Inference
  C. Selection and Corroboration of the Adverse Facts Available Rate
V. Discussion of The Issues
  A. Hyosung-Specific Issues Failure to Report Separately Service-Related Revenues Invoice Used in last Period of Review (POR) Used in this POR for Different Sale Unreported Sales Adjustments
  B. Hyundai-Specific Issues Failure to Separately Report the Prices and Costs for Accessories Understatement of the Home Market Gross Unit Price Undisclosed Relationship with Hyundai's Sales Agent
  VI. Rate for Non-Selected Companies
  VII. Recommendation

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[13] *See* 19 CFR 351.310(d).

[14] *See* section 751(a)(3)(A) of the Act; 19 CFR 351.213(h).

[15] *See* Preliminary Decision Memorandum at ''Rate for Non-Selected Companies'' (for an explanation of how we preliminarily determined the rate for non-selected companies).

[16] *See Large Power Transformers from the Republic of Korea: Antidumping Duty Order,* 77 FR 53177 (August 31, 2012).

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–909]

Certain Steel Nails From the People's Republic of China: Preliminary Results of the Antidumping Duty Administrative Review and Preliminary Determination of No Shipments; 2015–2016

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: The Department of Commerce (the Department) preliminarily determines that mandatory respondents Stanley Works (Langfang) Fastening Systems Co., Ltd. and Stanley Black & Decker, Inc. (collectively Stanley), and Tianjin Lianda Group Co, Ltd. (Tianjin Lianda) sold subject merchandise in the United States at prices below normal value (NV) during the period of review (POR), August 1, 2015, through July 31, 2016. If these preliminary results are adopted in the final results, the Department will instruct U.S. Customs and Border Protection (CBP) to assess antidumping duties (AD) on all appropriate entries of subject merchandise during the POR. Interested parties are invited to comment on these preliminary results.

DATES: Applicable September 7, 2017.

FOR FURTHER INFORMATION CONTACT: Matthew Renkey or Courtney Canales, AD/CVD Operations, Office V, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW., Washington, DC 20230; telephone: (202) 482–2312 or (202) 482–4997, respectively.

SUPPLEMENTARY INFORMATION:

Background

On October 14, 2016, the Department published in the **Federal Register** the notice of initiation of an administrative review of the AD order on certain steel nails (Nails) from the People's Republic of China (PRC) for the period of review August 1, 2015, through July 31, 2016. The Department initiated a review with respect to 31 companies.[1] The

[1] *See Initiation of Antidumping and Countervailing Duty Administrative Reviews,* 81 FR 71064 (October 14, 2016) *(Initiation Notice).* Although there were 32 companies in the initiation, it included SDC International Australia Pty Ltd. Per the Final Results of Redetermination Pursuant to Voluntary Remand Order: *SDC International Aust. PTY. Ltd.* v. *United States,* CIT Court No. 16–00062 (January 20, 2017), we found both SDC International Aust. Pty. Ltd. and SDC International Australia Pty Ltd., to be the same company.

Continued

Department selected two mandatory respondents, Stanley and Tianjin Lianda, based on highest volume of exports.[2] On April 21, 2017, the Department extended the preliminary results of review to August 31, 2017.

Scope of the Order

The merchandise covered by the order includes certain steel nails having a shaft length up to 12 inches. Certain steel nails subject to the order are currently classified under the Harmonized Tariff Schedule of the United States (HTSUS) subheadings 7317.00.55, 7317.00.65, 7317.00.75, and 7907.00.6000.[3] While the HTSUS subheadings are provided for convenience and customs purposes, the written description of the scope of the order is dispositive.[4]

Preliminary Determination of No Shipments

Based on the no-shipments letters filed by two companies,[5] the Department preliminarily determines that these companies had no shipments during the POR. For additional information regarding this determination, including a list of these companies, *see* the Preliminary Decision Memorandum. Consistent with our assessment practice in non-market economy (NME) administrative reviews, the Department is not rescinding this review for these companies, but intends to complete the review and issue appropriate instructions to CBP based on the final results of the review.[6]

Separate Rates

The Department preliminarily determines that information placed on the record by the mandatory respondents Stanley and Tianjin Lianda, as well as by the 22 other separate rate applicants, demonstrates that these companies are entitled to separate rate status. *See* Preliminary Results of Review section below. For additional information, *see* the Preliminary Decision Memorandum.

PRC-Wide Entity

The Department's policy regarding conditional review of the PRC-wide entity applies to this administrative review.[7] Under this policy, the PRC-wide entity will not be under review unless a party specifically requests, or the Department self-initiates, a review of the entity. Because no party requested a review of the PRC-wide entity in this review, the entity is not under review and the weighted-average dumping margin determined for the PRC-wide entity is not subject to change (*i.e.,* 118.04 percent) as a result of this review.[8] Aside from the companies discussed above, the Department considers all other companies for which a review was requested [9] to be part of the PRC-wide entity. For additional information, *see* the Preliminary Decision Memorandum; *see also* Appendix 2 for a list of companies considered as part of the PRC-wide entity.

Rate for Separate-Rate Companies Not Individually Examined

The statute and the Department's regulations do not address the establishment of a rate to be applied to respondents not selected for individual examination when the Department limits its examination of companies subject to the administrative review pursuant to section 777A(c)(2)(B) of the Tariff Act of 1930, as amended (the Act). Generally, the Department looks to section 735(c)(5) of the Act, which provides instructions for calculating the all-others rate in an investigation, for guidance when calculating the rate for companies not individually examined in an administrative review. Section 735(c)(5)(A) of the Act articulates a preference for not calculating an all-others rate using rates which are zero, *de minimis* or based entirely on facts available (FA). Accordingly, the Department's usual practice has been to determine the dumping margin for companies not individually examined by averaging the weighted-average dumping margins for the individually examined respondents, excluding rates that are zero, *de minimis,* or based entirely on facts available.[10] Consistent with this practice, in this review, we calculated weighted-average dumping margins for both Stanley and Tianjin Lianda that are both not zero, *de minimis* or based entirely on FA; therefore, the Department assigned to the companies not individually examined, but which demonstrated their eligibility for a separate rate, the weighted average of the weighted-average dumping margins calculated for Stanley and Tianjin Lianda in these preliminary results. This average has been weighted by the ranged, publicly available sale quantities for Stanley and Tianjin Lianda in the U.S. market.

Methodology

The Department is conducting this review in accordance with sections 751(a)(1)(B) and 751(a)(2)(A) of the Act. Constructed export prices and export prices have been calculated in accordance with section 772 of the Act. Because the PRC is a non-market economy country within the meaning of section 771(18) of the Act, normal value (NV) has been calculated in accordance with section 773(c) of the Act.

For a full description of the methodology underlying our conclusions, *see* the Preliminary Decision Memorandum. The Preliminary Decision Memorandum is a public document and is on file electronically via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). ACCESS is available to registered users at *http://access.trade.gov,* and is available to all parties in the Central Records Unit, room B8024 of the main Department of Commerce building. In addition, a complete version of the

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Therefore, SDC International Aust. Pty. Ltd. is the party under review; SDC International Australia Pty Ltd. is not under review as a distinct company.

[2] *See* Respondent Selection Memo dated February 2, 2017.

[3] The Department added the Harmonized Tariff Schedule category 7907.00.6000, ''Other articles of zinc: Other,'' to the language of the *Order. See* Memorandum to Gary Taverman, Senior Advisor for Antidumping and Countervailing Duty Operations, through James C. Doyle, Director, Office 9, Antidumping and Countervailing Duty Operations, regarding ''Certain Steel Nails from the People's Republic of China: Cobra Anchors Co. Ltd. Final Scope Ruling,'' dated September 19, 2013.

[4] *See* ''Certain Steel Nails from the People's Republic of China: Decision Memorandum for the Preliminary Results of the 2015–2016 Antidumping Duty Administrative Review,'' (Preliminary Decision Memorandum), dated concurrently with these results and hereby adopted by this notice, for a complete description of the Scope of the *Order.*

[5] Although Shanxi Yuci, Besco Machinery Industry (Zheijiang) Co., Ltd., Certified Products International Inc., PT Enterprise Inc., Shanghai Jade Shuttle Hardware Tools Co., Ltd., and Zhejian Gem-Chun Hardware Accessory Co., Ltd. submitted a No Shipments Letter, they are not among the 31 companies initiated on in this review, and therefore are not subject to this review. Therefore, we have only evaluated the no shipment claims of the two companies that submitted no shipments letters and for which this review was initiated.

[6] *See Non-Market Economy Antidumping Proceedings: Assessment of Antidumping Duties,* 76 FR 65694, 65694–95 (October 24, 2011) and the ''Assessment Rates'' section, below.

[7] *See Antidumping Proceedings: Announcement of Change in Department Practice for Respondent Selection in Antidumping Duty Proceedings and Conditional Review of the Nonmarket Economy Entity in NME Antidumping Duty Proceedings,* 78 FR 65963 (November 4, 2013).

[8] *Id.; Certain Steel Nails from the People's Republic of China: Final Results of Antidumping Duty Administrative Review; 2012–2013,* 80 FR 18816, 18817 and accompanying Issues and Decision Memorandum.

[9] These companies are: Aironware (Shanghai) Co., Ltd., Certified Products Taiwan Inc., Chiieh Yung Metal Ind. Corp., Faithful Engineering Products Co., Ltd., and Huanghua Xionghua Hardware Products Co., Ltd.

[10] *See Ball Bearings and Parts Thereof from France, Germany, Italy, Japan, and the United Kingdom: Final Results of Antidumping Duty Administrative Reviews and Rescission of Reviews in Part,* 73 FR 52823, 52824 (September 11, 2008), and accompanying Issues and Decision Memorandum at Comment 16.

Preliminary Decision Memorandum can be accessed directly on the internet at *http://enforcement.trade.gov/frn/.* The signed Preliminary Decision Memorandum and the electronic versions of the Preliminary Decision Memorandum are identical in content.

Preliminary Results of Review

The Department preliminarily determines that the following weighted-average dumping margins exist for the period August 1, 2015, through July 31, 2016:

Exporter/producer	Weighted-average dumping margin
Stanley	3.60
Tianjin Lianda	332.95
Dezhou Hualude Hardware Products Co., Ltd	28.21
Hebei Cangzhou New Century Foreign Trade Co., Ltd	28.21
Hebei Minmetals Co., Ltd	28.21
Nanjing CAIQING Hardware Co., Ltd	28.21
Nanjing Toua Hardware & Tools Co., Ltd	28.21
Qingdao D&L Group Ltd	28.21
SDC International Aust. PTY. LTD	28.21
Shandong Dinglong Import & Export Co., Ltd	28.21
Shandong Oriental Cherry Hardware Group Co., Ltd	28.21
Shandong Qingyun Hongyi Hardware Products Co., Ltd	28.21
Shanghai Curvet Hardware Products Co., Ltd	28.21
Shanghai Yueda Nails Industry Co., Ltd a.k.a. Shanghai Yueda	28.21
Shanxi Hairui Trade Co., Ltd	28.21
Shanxi Pioneer Hardware Industrial Co., Ltd	28.21
Shanxi Tianli Industries Co., Ltd	28.21
Suntec Industries Co., Ltd	28.21
S-Mart (Tianjin) Technology Development Co., Ltd	28.21
Tianjin Jinchi Metal Products Co., Ltd	28.21
Tianjin Jinghai County Hongli Industry & Business Co., Ltd	28.21
Tianjin Universal Machinery Imp. & Exp. Corporation	28.21
Tianjin Zhonglian Metals Ware Co., Ltd	28.21
Xi'an Metals & Minerals Import & Export Co., Ltd	28.21

Disclosure

The Department intends to disclose to interested parties the calculations performed in connection with these preliminary results within five days of its public announcement or, if there is no public announcement, within five days of the date of publication of this notice in accordance with 19 CFR 351.224(b).

Public Comment

Case briefs or other written comments may be submitted to the Assistant Secretary for Enforcement and Compliance no later than 30 days after the date of publication of these preliminary results, unless the Secretary alters the time limit. Rebuttal briefs, limited to issues raised in case briefs, may be submitted no later than five days after the deadline date for case briefs.[11] Pursuant to 19 CFR 351.309(c)(2) and (d)(2), parties who submit case briefs or rebuttal briefs in this administrative review are encouraged to submit with each argument: (1) A statement of the issue; (2) a brief summary of the argument; and (3) a table of authorities.

Pursuant to 19 CFR 351.310(c), interested parties who wish to request a hearing, limited to issues raised in the case and rebuttal briefs, must submit a written request to the Assistant Secretary for Enforcement and Compliance, U.S. Department of Commerce, within 30 days after the date of publication of this notice. Requests should contain the party's name, address, and telephone number, the number of participants, whether any participant is a foreign national, and a list of the issues to be discussed. If a request for a hearing is made, the Department intends to hold the hearing at the U.S. Department of Commerce, 1401 Constitution Avenue NW., Washington, DC 20230, at a time and date to be determined. Parties should confirm by telephone the date, time, and location of the hearing two days before the scheduled date.

The Department intends to issue the final results of this administrative review, which will include the results of our analysis of all issues raised in the case briefs, within 120 days of publication of these preliminary results in the **Federal Register**, pursuant to section 751(a)(3)(A) of the Act, unless extended.

Assessment Rates

Upon issuance of the final results, the Department will determine, and CBP shall assess, antidumping duties on all appropriate entries covered by this review.[12] The Department intends to issue assessment instructions to CBP 15 days after the publication date of the final results of this review.

For any individually examined respondent whose weighted average dumping margin is not zero or *de minimis* (*i.e.,* less than 0.50 percent) in the final results of this review, the Department will calculate importer-specific assessment rates on the basis of the ratio of the total amount of dumping calculated for the importer's examined sales to the total entered value of those sales, in accordance with 19 CFR 351.212(b)(1). Where an importer-specific *ad valorem* rate is not zero or *de minimis,* the Department will instruct CBP to collect the appropriate duties at the time of liquidation.[13] Where either a respondent's weighted-average dumping margin is zero or *de minimis,* or an importer-specific *ad valorem* assessment rate is zero or *de minimis,* the Department will instruct CBP to liquidate appropriate entries without regard to antidumping duties.[14]

Cash Deposit Requirements

The following cash deposit requirements will be effective upon

[11] *See* 19 CFR 351.309; *see also* 19 CFR 351.303 (for general filing requirements).

[12] *See* 19 CFR 351.212(b).

[13] *See* 19 CFR 351.212(b)(1).

[14] *See* 19 CFR 351.106(c)(2).

publication of the final results of this review for shipments of the subject merchandise from the PRC entered, or withdrawn from warehouse, for consumption on or after the publication date, as provided by sections 751(a)(2)(C) of the Act: (1) For the companies listed above that have a separate rate, the cash deposit rate will be equal to the weighted-average dumping margin established in the final results of this review (except, if the rate is *de minimis,* then cash deposit rate will be zero); (2) for previously examined PRC and non-PRC exporters not listed above that at the time of entry are eligible for a separate rate based on a prior completed segment of this proceeding, the cash deposit rate will continue to be the existing exporter-specific cash deposit rate; (3) for all PRC exporters of subject merchandise that have not been found to be entitled to a separate rate at the time of entry, the cash deposit rate will be that for the PRC-wide entity (*i.e.,* 118.04 percent); and (4) for all non-PRC exporters of subject merchandise which at the time of entry are not eligible for a separate rate, the cash deposit rate will be the rate applicable to the PRC exporter that supplied that non-PRC exporter. These deposit requirements, when imposed, shall remain in effect until further notice.

Notification to Importers

This notice also serves as a preliminary reminder to importers of their responsibility under 19 CFR 351.402(f)(2) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during the POR. Failure to comply with this requirement could result in the Department's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

Notification to Interested Parties

This preliminary determination is issued and published in accordance with sections 751(a)(1) and 777(i)(1) of the Act.

Dated: August 31, 2017.

Gary Taverman,

Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, performing the non-exclusive functions and duties of the Assistant Secretary for Enforcement and Compliance.

Appendix 1

List of Topics Discussed in the Preliminary Decision Memorandum

1. Summary
2. Background
3. Scope of the Order
4. Preliminary Determination of No Shipments
5. Non-Market Economy Country Status
6. Separate Rates
7. Application of Facts Available and Use of Adverse Inference
8. Facts Available
9. Surrogate Country
10. Date of Sale
11. Normal Value Comparisons
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14. Currency Conversion
15. Recommendation

Appendix 2

1. Aironware (Shanghai) Co., Ltd.
2. Certified Products Taiwan Inc.
3. Chiieh Yung Metal Ind. Corp.
4. Faithful Engineering Products Co., Ltd.
5. Huanghua Xionghua Hardware Products Co., Ltd.

[FR Doc. 2017–18977 Filed 9–6–17; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

Proposed Information Collection; Comment Request; EU–U.S. Privacy Shield; Invitation for Applications for Inclusion on the List of Arbitrators

AGENCY: International Trade Administration.

ACTION: Notice.

SUMMARY: The Department of Commerce, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995.

DATES: Written comments must be submitted on or before November 6, 2017.

ADDRESSES: Direct all written comments to Jennifer Jessup, Departmental Paperwork Clearance Officer, Department of Commerce, Room 6616, 14th and Constitution Avenue NW., Washington, DC 20230 (or via the Internet at *PRAcomments@doc.gov.*

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection instrument and instructions should be directed to Nasreen Djouini at the U.S. Department of Commerce, either by email at *Nasreen.Djouini@trade.gov*, or by fax at: 202–482–5522. More information on the arbitration mechanism may be found at *https://www.privacyshield.gov/article?id=ANNEX-I-introduction.*

SUPPLEMENTARY INFORMATION:

I. Abstract

The EU–U.S. Privacy Shield Framework was designed by the U.S. Department of Commerce (DOC) and the European Commission (Commission) to provide companies on both sides of the Atlantic with a mechanism to comply with data protection requirements when transferring personal data from the European Union to the United States in support of transatlantic commerce. On July 12, 2016, the Commission deemed the EU–U.S. Privacy Shield Framework (Privacy Shield) adequate to enable data transfers under EU law, and on August 1, 2016, the DOC began accepting self-certifications from U.S. companies to join the program (81 FR 47752; July 22, 2016). For more information on the Privacy Shield, visit *www.privacyshield.gov.*

As described in Annex I of the Privacy Shield, the DOC and the Commission have committed to implement an arbitration mechanism to provide European individuals with the ability to invoke binding arbitration to determine, for residual claims, whether an organization has violated its obligations under the Privacy Shield. Organizations voluntarily self-certify to the Privacy Shield and, upon certification, the commitments the organization has made to comply with the Privacy Shield become legally enforceable under U.S. law. Organizations that self-certify to the Privacy Shield commit to binding arbitration of residual claims if the individual chooses to exercise that option. Under the arbitration option, a Privacy Shield Panel (consisting of one or three arbitrators, as agreed by the parties) has the authority to impose individual-specific, non-monetary equitable relief (such as access, correction, deletion, or return of the individual's data in question) necessary to remedy the violation of the Privacy Shield only with respect to the individual. The parties will select the arbitrators from the list of arbitrators described below.

The DOC and the European Commission seek to develop a list of at least 20 arbitrators. To be eligible for inclusion on the list, applicants must be admitted to practice law in the United States and have expertise in both U.S. privacy law and EU data protection law. Applicants shall not be subject to any instructions from, or be affiliated with, any Privacy Shield organization, or the U.S., EU, or any EU Member State or any other governmental authority, public authority or enforcement authority.

Eligible individuals will be evaluated on the basis of independence, integrity, and expertise:

Independence

- Freedom from bias and prejudice.

Integrity

- Held in the highest regard by peers for integrity, fairness and good judgment.
- Demonstrates high ethical standards and commitment necessary to be an arbitrator.

Expertise

Required:

- Admission to practice law in the United States.
- Level of demonstrated expertise in U.S. privacy law and EU data protection law.

Other expertise that may be considered includes any of the following:

- Relevant educational degrees and professional licenses.
- Relevant professional or academic experience or legal practice.
- Relevant training or experience in arbitration or other forms of dispute resolution.

Evaluation of applications for inclusion on the list of arbitrators will be undertaken by the DOC and the Commission. Selected applicants will remain on the list for a period of 3 years, absent exceptional circumstances; change in eligibility, or for cause, renewable for one additional period of 3 years.

The DOC is in the process of selecting an administrator for Privacy Shield arbitrations.[a] Among other things, once selected, the Administrator will facilitate arbitrator fee arrangements, including the collection and timely payment of arbitrator fees and other expenses. Arbitrators are expected to commit their time and effort when included on the Privacy Shield List of Arbitrators and to take reasonable steps to minimize the costs or fees of the arbitration.

Arbitrators will be subject to a code of conduct consistent with Annex I of the Privacy Shield Framework and generally accepted ethical standards for arbitrators. The DOC and the Commission agreed to adopt an existing, well-established set of U.S. arbitral procedures to govern the arbitral proceedings, subject to considerations identified in Annex I of the Privacy Shield Framework, including that materials submitted to arbitrators will be treated confidentially and will only be used in connection with the arbitration. For more information, please visit *https://www.privacyshield.gov/article?id=G-Arbitration-Procedures* where you can find information on the arbitration procedures.

[a] For more information about the selection process and the role of the administrator, see *https://www.privacyshield.gov/Arbitration-Fact-Sheet.*

Applications

Eligible individuals who wish to be considered for inclusion on the EU–U.S. Privacy Shield List of Arbitrators are invited to submit applications by October 6, 2017 deadline. Applications must be typewritten and should be headed ''Application for Inclusion on the EU–U.S. Privacy Shield List of Arbitrators.'' Applications should include the following information, and each section of the application should be numbered as indicated:

—Name of applicant.
—Address, telephone number, and email address.

1. Independence

—Description of the applicant's affiliations with any Privacy Shield organization, or the U.S., EU, any EU Member State or any other governmental authority, public authority, or enforcement authority.

2. Integrity

—On a separate page, the names, addresses, telephone, and fax numbers of three individuals willing to provide information concerning the applicant's qualifications for service, including the applicant's character, reputation, reliability, and judgment.
—Description of the applicant's willingness and ability to make time commitments necessary to be an arbitrator.

3. Expertise

—Demonstration of admittance to practice law in the United States.
—Relevant academic degrees and professional training and licensing.
—Current employment, including title, description of responsibility, name and address of employer, and name and telephone number of supervisor or other reference.
—Employment history, including the dates and addresses of each prior position and a summary of responsibilities.
—Description of expertise in U.S. privacy law and EU data protection law.
—Description of training or experience in arbitration or other forms of dispute resolution, if applicable.
—A list of publications, testimony, and speeches, if any, concerning U.S. privacy law and EU data protection law, with copies appended.

II. Method of Collection

Please submit applications by September 25, 2017 deadline to Nasreen Djouini at the U.S. Department of Commerce, either by email at *Nasreen.Djouini@trade.gov,* or by fax at: 202–482–5522. More information on the arbitration mechanism may be found at *https://www.privacyshield.gov/article?id=ANNEX-I-introduction.*

III. Data

OMB Control Number: 0625–0277.

Form Number(s): None.

Type of Review: Regular submission.

Affected Public: private individuals.

Estimated Number of Respondents: 60.

Estimated Time per Response: 240 minutes.

Estimated Total Annual Burden Hours: 240 hours.

Estimated Total Annual Cost to Public: $0.

IV. Request for Comments

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden (including hours and cost) of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval of this information collection; they also will become a matter of public record.

Sheleen Dumas,

Departmental PRA Lead, Office of the Chief Information Officer.

[FR Doc. 2017–18896 Filed 9–6–17; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–412–801]

Ball Bearings and Parts Thereof From the United Kingdom: Notice of Court Decision Not in Harmony With Amended Final Results and Notice of Second Amended Results of Antidumping Duty Administrative Review

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: On August 23, 2017, the United States Court of International Trade (CIT) entered final judgment sustaining the final results of remand redetermination pursuant to court order by the Department of Commerce (Department) pertaining to the antidumping duty administrative review of the order on ball bearings and parts thereof (ball bearings) from the United Kingdom for the period May 1, 2010, through April 30, 2011. The Department is notifying the public that the final judgment in this case is not in harmony with the Department's final results, as amended, in the administrative review of ball bearings from the United Kingdom.

DATES: September 2, 2017.

FOR FURTHER INFORMATION CONTACT: Thomas Schauer, AD/CVD Operations, Office I, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW., Washington, DC 20230; telephone: (202) 482–0410.

SUPPLEMENTARY INFORMATION:

Background

On January 27, 2015, the Department published the *Final Results* in the above-referenced administrative review.[1] The Department selected the highest rate from the petition (254.25 percent) as the dumping margin for Bayerische Motoren Werke AG (BMW), based on adverse facts available (AFA). BMW of North America LLC appealed the *Final Results* to the CIT, and on March 2, 2017, the CIT remanded the *Final Results*.[2] Specifically, the CIT remanded the *Final Results,* directing that the Department either: (1) Provide a new corroboration analysis for the selected petition rate that is consistent with the Department's obligations and the Court's opinion; or (2) determine a new AFA rate consistent with the Department's obligations and the Court's opinion.[3]

On May 12, 2017, the Department issued its final results of redetermination pursuant to remand.[4] On remand, the Department determined a new AFA rate of 126.44 percent for BMW, consistent with the *Remand Order.* On August 23, 2017, the CIT sustained the Department's *Final Redetermination*.[5]

Timken Notice

In its decision in *Timken,*[6] as clarified by *Diamond Sawblades,*[7] the Court of Appeals for the Federal Circuit held that, pursuant to section 516A(c) of the Tariff Act of 1930, as amended (the Act), the Department must publish a notice of court decision that is not ''in harmony'' with a Department determination and must suspend liquidation of entries pending a ''conclusive'' court decision. The CIT's August 23, 2017, judgment constitutes a final decision of that court that is not in harmony with the Department's *Final Results.* This notice is published in fulfillment of the publication requirements of *Timken.* Accordingly, the Department will continue the suspension of liquidation of the subject merchandise pending the expiration of the period of appeal, or if appealed, pending a final and conclusive court decision.

Second Amended Final Results

Because there is now a final court decision, the Department is amending the *Final Results* with respect to BMW. The revised weighted-average dumping margin for BMW for the period May 1, 2010, through April 30, 2011, is as follows:

Exporter or producer	Weighted-average dumping margin (percent)
Bayerische Motoren Werke AG ..	126.44

In the event the Court's ruling is not appealed, or if it is appealed and upheld by a final and conclusive court decision, the Department will instruct U.S. Customs and Border Protection to assess antidumping duties at a rate equal to the weighted-average dumping margin listed above to all entries of subject merchandise produced and/or exported by BMW.

Cash Deposit Requirements

On March 26, 2014, the Department revoked the antidumping duty order on ball bearings and parts thereof from the United Kingdom, effective as of September 15, 2011.[8] Therefore, no cash deposit requirements will be imposed as a result of these second amended final results.

Notification to Interested Parties

This notice is issued and published in accordance with sections 516A(e)(1), 751(a)(1) and 777(i)(1) of the Act.

Dated: August 30, 2017.

Gary Taverman,

Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, performing the non-exclusive functions and duties of the Assistant Secretary for Enforcement and Compliance.

[FR Doc. 2017–18978 Filed 9–6–17; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[C–570–953]

Narrow Woven Ribbons With Woven Selvedge From the People's Republic of China: Preliminary Results of Countervailing Duty Administrative Review; 2015

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: The Department of Commerce (the Department) preliminarily determines that countervailable subsidies have been provided to producers and exporters of narrow woven ribbons with woven selvedge from the People's Republic of China

[1] *See Ball Bearings and Parts Thereof from Japan and the United Kingdom: Final Results of Antidumping Duty Administrative Reviews; 2010–2011,* 80 FR 4248 (January 27, 2015); as amended, *Ball Bearings and Parts Thereof from the United Kingdom: Amended Final Results of Antidumping Duty Administrative Review; 2010–2011,* 80 FR 9694 (February 24, 2015) (collectively, *Final Results*).

[2] *See BMW of North America LLC* v. *United States,* Court No. 15–00052, Slip Op. 17–22 (CIT March 2, 2017) (*Remand Order*).

[3] *See Remand Order* at 12–17.

[4] *See* Results Of Remand Redetermination, *BMW of North America LLC* v. *United States,* Court No. 15–00052, Slip Op. 17–22, dated May 12, 2017 (*Final Redetermination*).

[5] *See BMW of North America LLC* v. *United States,* Court No. 15–00052, Slip Op. 17–109 (CIT August 23, 2017).

[6] *See Timken Co.* v. *United States,* 893 F.2d. 337 (Fed. Cir. 1990) (*Timken*).

[7] *See Diamond Sawblades Mfrs. Coalition* v. *United States,* 626 F.3d. 1374 (Fed. Cir. 2010) (*Diamond Sawblades*).

[8] *See Ball Bearings and Parts Thereof from Japan and the United Kingdom: Final Results of Sunset Reviews and Revocation of Antidumping Duty Orders,* 79 FR 16771 (March 26, 2014).

(PRC). The period of review (POR) is January 1, 2015, through December 31, 2015. Interested parties are invited to comment on these preliminary results.

DATES: Applicable September 7, 2017.

FOR FURTHER INFORMATION CONTACT: Terre Keaton Stefanova, AD/CVD Operations, Office II, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW., Washington, DC 20230; telephone: (202) 482–1280.

SUPPLEMENTARY INFORMATION:

Background

The Department published the notice of initiation of this administrative review on November 9, 2016.[1] On May 1, 2017, and July 17, 2017, the Department postponed the preliminary results of this administrative review and the revised deadline is now August 31, 2017.[2] For a complete description of the events that followed the initiation of this administrative review, see the Preliminary Decision Memorandum.[3]

Scope of the Order

The products covered by the order are narrow woven ribbons with woven selvedge from the PRC. For a complete description of the scope of this administrative review, see the Preliminary Decision Memorandum.[4]

Methodology

The Department is conducting this countervailing duty (CVD) review in accordance with section 751(a)(1)(A) of the Tariff Act of 1930, as amended (the Act). For each of the subsidy programs found countervailable, the Department preliminarily determines that there is a subsidy, *i.e.*, a financial contribution by an ''authority'' that gives rise to a benefit to the recipient, and that the subsidy is specific.[5] For a full description of the methodology underlying our preliminary conclusions, including our reliance, in part, on adverse facts available pursuant to sections 776(a) and (b) of the Act, see the Preliminary Decision Memorandum.[6] The Preliminary Decision Memorandum is a public document and is on file electronically via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). ACCESS is available to registered users at *http://access.trade.gov,* and is available to all parties in the Central Records Unit, room B8024 of the main Department of Commerce building. In addition, a complete version of the Preliminary Decision Memorandum can be accessed directly at *http://enforcement.trade.gov/frn/*. The signed and electronic versions of the Preliminary Decision Memorandum are identical in content.

Preliminary Results of the Review

As a result of this review, we preliminarily determine that the following estimated countervailable subsidy rate exists:

Company	Subsidy rate (percent)
Yama Ribbons and Bows Co., Ltd	23.37

Assessment Rates

Upon issuance of the final results, the Department shall determine, and U.S. Customs and Border Protection (CBP) shall assess, countervailing duties on all appropriate entries covered by this review. We intend to issue assessment instructions to CBP 15 days after publication of the final results of this review.

Cash Deposit Requirements

Pursuant to section 751(a)(2)(C) of the Act, the Department also intends to instruct CBP to collect cash deposits of estimated countervailing duties in the amount indicated above. For all non-reviewed firms, we will instruct CBP to collect cash deposits of estimated countervailing duties at the most recent company-specific or all-others rate applicable to the company, as appropriate. These cash deposit requirements, when imposed, shall remain in effect until further notice.

Disclosure and Public Comment

The Department intends to disclose to interested parties the calculations and analysis performed in connection with this preliminary results within five days of publication of this notice in the **Federal Register**.[7] Case briefs or other written comments may be submitted to the Assistant Secretary for Enforcement and Compliance no later than 30 days after publication of the preliminary results.[8] Rebuttal briefs, limited to issues raised in case briefs, may be submitted no later than five days after the deadline for filing case briefs.[9] Parties who submit case briefs or rebuttal briefs in this administrative review are encouraged to submit with each argument: (1) A statement of the issue; (2) a brief summary of the argument; and (3) a table of authorities.[10]

Interested parties who wish to request a hearing, limited to issues raised in the case and rebuttal briefs, must do so within 30 days of publication of these preliminary results by submitting a written request to the Assistant Secretary for Enforcement and Compliance, U.S. Department of Commerce, using Enforcement and Compliance's ACCESS system.[11] Requests should contain the party's name, address, and telephone number, the number of participants, whether any participant is a foreign national, and a list of the issues to be discussed. If a request for a hearing is made, we will inform parties of the scheduled date for the hearing which will be held at the U.S. Department of Commerce, 1401 Constitution Avenue NW., Washington, DC 20230, at a time and date to be determined.[12] Parties should confirm by telephone the date, time, and location of the hearing.

Unless the deadline is extended pursuant to section 751(a)(3)(A) of the Act, we intend to issue the final results of this administrative review, including the results of our analysis of the issues raised by the parties in their comments, within 120 days after issuance of these preliminary results.

Notification to Interested Parties

These preliminary results are issued and published pursuant to sections 751(a)(1) and 777(i)(1) of the Act and 19 CFR 351.221(b)(4).

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[1] *See Initiation of Antidumping and Countervailing Duty Administrative Reviews*, 81 FR 78778 (November 9, 2016).

[2] See Memorandum, ''Narrow Woven Ribbons with Woven Selvedge from the People's Republic of China: Extension of Deadline for Preliminary Results of 2015 Countervailing Duty Administrative Review,'' dated May 1, 2017, and Memorandum, ''Narrow Woven Ribbons with Woven Selvedge from the People's Republic of China: Extension of Deadline for Preliminary Results of 2015 Countervailing Duty Administrative Review,'' dated July 17, 2017.

[3] *See* Memorandum, ''Decision Memorandum for the Preliminary Results of 2015 Countervailing Duty Administrative Review: Narrow Woven Ribbons with Woven Selvedge from the People's Republic of China,'' dated concurrently with, and hereby adopted by, this notice (Preliminary Decision Memorandum).

[4] *Id.*

[5] *See* sections 771(5)(B) and (D) of the Act regarding financial contribution; section 771(5)(E) of the Act regarding benefit; and section 771(5A) of the Act regarding specificity.

[6] A list of topics discussed in the Preliminary Decision Memorandum can be found in the Appendix to this notice.

[7] *See* 19 CFR 351.224(b).

[8] *See* 19 CFR 351.309(c)(l)(ii).

[9] *See* 19 CFR 351.309(d).

[10] *See* 19 CFR 351.309(c)(2) and (d)(2).

[11] *See* 19 CFR 351.310(c).

[12] *See* 19 CFR 351.310.

Dated: August 30, 2017.

Gary Taverman,

Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, performing the non-exclusive functions and duties of the Assistant Secretary for Enforcement and Compliance.

Appendix

List of Topics Discussed in the Preliminary Decision Memorandum

I. Summary
II. Background
III. Scope of the Order
IV. Application of the Countervailing Duty Law to Imports from the PRC
V. Diversification of the PRC's Economy
VI. Use of Facts Otherwise Available and Adverse Inferences
VII. Subsidies Valuation
VIII. Interest Rate Benchmarks, Discount Rates, Inputs and Electricity
IX. Analysis of Programs
X. Conclusion

[FR Doc. 2017–18975 Filed 9–6–17; 8:45 am]

BILLING CODE 3510–DS–P12

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Final Notice of a New Category of Special Use Permit Related to the Operation of Desalination Facilities Producing Potable Water for Consumption

AGENCY: Office of National Marine Sanctuaries (ONMS), National Ocean Service (NOS), National Oceanic and Atmospheric Administration (NOAA).

ACTION: Notice.

SUMMARY: On January 12, 2017, NOAA published a notice in the **Federal Register** proposing two new categories of special use permits (SUP) related to the operation of desalination facilities, and requesting public comment. NOAA hereby gives public notice that the Office of National Marine Sanctuaries will adopt a new SUP category pursuant to the requirements of Section 310 of the National Marine Sanctuaries Act (NMSA). The SUP category is for the continued presence of a pipeline transporting seawater to or from a desalination facility. The second category previously proposed for the use of sediment to filter seawater for desalination is removed. This notice also includes background information on the use of desalination in Monterey Bay National Marine Sanctuary (MBNMS) and ONMS regulations applicable to activities that disturb submerged lands or discharge into sanctuaries, explains why a SUP is appropriate for this category of actions, explains why issuance of a new SUP category will not result in additional regulatory review, explains how the SUP category will facilitate and streamline the administration and management of desalination permits, as appropriate, and provides responses to public comments received. At this time, most proposed desalination activity in sanctuaries occurs in MBNMS, and the scientific studies used for environmental impact and comparative cost analyses were regionally based, so the SUP category only applies to MBNMS.

DATES: This notice becomes effective on September 7, 2017.

ADDRESSES: Please see **FOR FURTHER INFORMATION CONTACT**. This **Federal Register** document is also accessible via the Internet at: *http://montereybay.noaa.gov.*

FOR FURTHER INFORMATION CONTACT: Bridget Hoover, Monterey Bay National Marine Sanctuary, 99 Pacific Street Bldg. 455A, Monterey, CA 93940, (831) 647–4217, *bridget.hoover@noaa.gov.*

SUPPLEMENTARY INFORMATION: Pursuant to Section 310 of the National Marine Sanctuaries Act, 16 U.S.C. 1441, NOAA issues this notice of a Special Use Permit (SUP) category applicable to Monterey Bay National Marine Sanctuary (MBNMS) for the continued presence of a pipeline transporting seawater to or from a desalination facility.

I. Background

Introduction to Desalination Projects in Sanctuaries

There is a growing public concern about ensuring adequate water resources to support populations along the California coast. Communities have been working together to develop strategies for addressing the long-term drought California has recently experienced and the resulting water scarcity. In the Monterey Bay area, desalination has been identified as one of the essential components of water resource portfolios. NOAA's initial proposal was to apply the proposed SUP categories across the National Marine Sanctuary System, which could have resulted in the SUP categories applying to Olympic Coast and Florida Keys national marine sanctuaries (the other two sanctuaries adjacent to land such that desalination facilities could be constructed) in addition to MBNMS (82 FR 3751). However, since most desalination activity in sanctuaries occurs in MBNMS, and the scientific studies used for environmental impact and comparative cost analyses were regionally based, the SUP category only applies to MBNMS.

Desalination is the process by which salts and other minerals are removed from seawater or brackish water to produce potable fresh water. The installation and operation of desalination facilities near a national marine sanctuary may involve access to and use of sanctuary resources and include activities prohibited by a sanctuary's regulations. One potentially applicable prohibition is for activities that cause the alteration of, or placement of structures on or in the seabed 15 CFR 922.132(a)(4). For example, installation of certain desalination facility structures such as an intake or outfall pipeline on, beneath, or attached to the ocean floor would be prohibited by sanctuary regulations and could only occur with sanctuary approval. Another prohibition potentially applicable to desalination projects is discharging or depositing any material or matter from within or into sanctuaries 15 CFR 922.132(a)(2). The disposal of brine effluent from a desalination facility, and most other materials, into sanctuary waters would be prohibited unless approved by the sanctuary.

Multiple federal, state and local permits are typically required for any construction and operation of desalination facilities, including when a facility is proposed near a national marine sanctuary. In 2010, NOAA, in collaboration with the California Coastal Commission and California Central Coast Regional Water Quality Control Board, published specific guidelines for new desalination plants in a report titled *Guidelines for Desalination Plants in Monterey Bay National Marine Sanctuary* (MBNMS 2010, *http://montereybay.noaa.gov/resourcepro/resmanissues/pdf/050610desal.pdf*). These non-regulatory guidelines were developed to help ensure that any future desalination plants in or adjacent to MBNMS would be sited, designed, and operated in a manner that results in minimal impacts to the marine environment. These guidelines address numerous issues associated with desalination including site selection, construction and operational impacts, plant discharges, and intake systems. The guidelines encourage the use of subsurface intake systems and associated pipelines, which have less potential to cause environmental harm to sensitive marine organisms and habitats than other types of intakes. Open water intakes have the potential to trap organisms on the intake screens (impingement) or impact organisms

small enough to pass through the screen during the processing of the saltwater (entrainment). Subsurface intakes have the potential to minimize or eliminate impingement and entrainment impacts (Chambers Group Memo 2010). When subsurface intakes are not feasible, and a new pipeline for an open water intake is necessary, placement should be thoroughly evaluated to minimize disturbances to biological resources. In addition, the guidelines encourage co-location with existing facilities (*e.g.,* sewage treatment plants) to dilute brine by blending it with existing effluent for ocean discharges.

The guidelines also examine which statutory and regulatory authorities would apply to desalination projects located near national marine sanctuaries. The guidelines explain that NOAA could potentially allow the construction and operation of desalination facilities through sanctuary authorization of other state and federal permits, such as the State of California's Coastal Development Permit and National Pollution Discharge Elimination System (NPDES) permit.

Authorizations and Special Use Permits (SUP)

This section provides information on the difference between authorizations and special use permits (SUPs); explains why an SUP category for the continued presence of a pipeline transporting seawater to and from a desalination facility is appropriate; explains how this SUP category will facilitate sanctuary management in a way that enables desalination facilities, as appropriate; and articulates the scope of coverage of this SUP category.

Depending on the type of activity or project proposed, NOAA has various regulatory mechanisms it can use to allow otherwise prohibited activities to occur within national marine sanctuaries. Two of these mechanisms are authorizations and SUPs. Authorizations allow an entity to conduct an activity prohibited by sanctuary regulations if such activity is specifically authorized by any valid Federal, State, or local lease, permit, license, approval, or other authorization issued after the effective date of sanctuary regulation (15 CFR 922.49). In contrast, SUPs can only be issued for activities that are needed: (1) To establish conditions of access to and use of any sanctuary resources; or (2) to promote public use and understanding of a sanctuary resource (16 U.S.C. 1441(a)). In addition, the activities covered under an SUP must be compatible with the purposes for which the sanctuary is designated and with protection of sanctuary resources (16 U.S.C. 1441(c)). SUPs may only be issued for activities that can be conducted in a manner that does not destroy, cause the loss of, or injure sanctuary resources (16 U.S.C. 1441(c)). Finally, SUPs may authorize the conduct of an activity for up to five years and may be renewed (16 U.S.C. 1441(c)).

As mentioned above, NOAA has the ability to issue an authorization for a desalination project. Authorizations would address the desalination projects' pipeline installation, maintenance, and removal, and brine discharge within the national marine sanctuary. For a desalination facility intake or outfall, an authorization of a California Coastal Development permit would be required for any seafloor disturbance, prior to issuance of an SUP for the continued presence of a pipeline transporting seawater to or from a desalination facility. Brine discharges would be covered by an authorization of another approval, such as the NPDES permit.

In addition, the NMSA gives NOAA authority to develop categories of SUP and to assess fees that may be applied to expenses of issuing and administering SUPs and expenses of managing national marine sanctuaries (16 U.S.C. 1441(d)(3)). In the case of a proposal for a desalination project in or near MBNMS, NOAA has found that there is a significant time and resource investment to review the environmental analysis and process a permit application for this type of large-scale coastal development project. Applicable SUP fees that may be assessed for permitting certain aspects of desalination projects would include the processing of applications, preparation and review of environmental analysis, as well as long-term monitoring of the impacts of the activity to sanctuary resources, and assessment of fair market value for the use of the resource.

NOAA has determined that the continued use of sanctuary resources (namely, the substrate, seafloor, and/or water column) by the presence of the pipeline could be carried out in a manner that is consistent with Section 310 of the NMSA. As such, an SUP is an appropriate mechanism for NOAA to approve the continued presence of a pipeline and recover applicable costs associated with managing the sanctuary in a manner that allows desalination projects to occur within or near MBNMS and facilitates the more efficient administration of desalination permits and allowances.[1] NOAA has further determined that issuance of this new SUP category will not result in additional regulatory review of desalination proposals, because an applicant would still need only submit one permit application even if NOAA ultimately issues multiple permits for the action, and because the same environmental review process pursuant to the National Environmental Policy Act (NEPA) and California Environmental Quality Act (CEQA), as required, would apply.

While NOAA could conceivably propose new SUP categories for other types of pipelines, utility lines, or use of sediment associated with activities other than desalination (*e.g.,* sewage treatment, or power generating facilities), NOAA elected to limit the focus of this SUP category to desalination activities in MBNMS, as desalination is currently a pressing issue on the California central coast. There is enough information on the types of activities associated with the continued presence of pipelines for desalination to make a determination that under certain conditions, and if correctly sited and compliant with *MBNMS Desalination Guidelines,* the continued presence of desalination pipelines is not likely to result in injury to sanctuary resources, which is a requirement for SUPs. It would be too speculative at this point for NOAA to analyze impacts of other types of pipelines, or other project impacts in the absence of a more clearly defined need or proposal for such activities.

The second category previously proposed for the use of sediment to filter seawater for desalination has been removed from this final notice as NOAA recognizes that it may be a disincentive for the industry to select subsurface seawater intake, which is considered to have a smaller environmental impact than other types of intake. Moreover, the remaining SUP category will apply only to MBNMS because NOAA is not able to determine that the activities covered under this SUP category would always meet the ''no injury'' criteria for SUPs specified in the NMSA for all sites, at this time.

NMSA Special Use Permits

This section provides more information of the history of SUPs, how SUPs are applied, and how SUP fees are assessed and applied.

[1] This management approach has been applied with respect to submarine fiber optic cables in Olympic Coast and Stellwagen Bank national marine sanctuaries, where the installation of the infrastructure was considered via a separate authorization and the continued presence of the infrastructure was addressed through an SUP (76 FR 56973; ONMS 2002).

Congress first granted NOAA the authority to issue SUPs for the conduct of specific activities in national marine sanctuaries in the 1988 Amendments to the National Marine Sanctuaries Act (NMSA; 16 U.S.C. 1431 *et seq.*) (Pub. L. 100–627). NMSA section 310 allows NOAA to issue SUPs to establish conditions of access to and use of any sanctuary resource or to promote public use and understanding of a sanctuary resource. In the National Marine Sanctuaries Amendments Act of 2000 (Pub. L. 106–513), Congress added a requirement that prior to requiring an SUP for any category of activity, NOAA shall give appropriate public notice. NMSA section 310(b) states that ''[NOAA] shall provide appropriate public notice before identifying any category of activity subject to a special use permit under subsection (a).'' On January 30, 2006, NOAA published a list of five categories for which the requirements of SUPs would be applicable (71 FR 4898). NOAA further refined this list of categories for which an SUP could be issued on May 3, 2013 (78 FR 25957).

In January 2013, NOAA clarified that simply being consistent with one of the categories does not guarantee approval of an SUP for any given activity. Applications are reviewed for consistency with the SUP requirements in section 310(c) of the NMSA, 16 U.S.C. 1441(c), as well as the published description of the category. Of particular importance, SUPs may only be issued for activities NOAA determines can be conducted in a manner that does not destroy, cause the loss of, or injure sanctuary resources (NMSA section 310(c)(3), 16 U.S.C. 1441(c)(3)). Individual permit applications that would require an SUP are also reviewed with respect to all other pertinent regulations and statutes, including NEPA, 42 U.S.C. 4321 *et seq,* and any required consultations, permits or authorizations. NOAA would assess whether activities associated with proposed desalination projects are appropriate for this new SUP category on a case-by-case basis, and as part of the federal environmental review process required by NEPA. Under NEPA, NOAA would analyze the environmental impacts of the entire proposed federal action (*i.e.,* the approval or denial of a desalination project) including the issuance of any SUPs and sanctuary authorizations.

Pursuant to NMSA section 310(d), NOAA may assess three types of fees associated with the conduct of any activity under an SUP: (1) Administrative costs of issuing the permit; (2) implementation and monitoring costs; and (3) fair market value (FMV) of the use of the sanctuary resource (16 U.S.C. 1441(d)). On November 19, 2015, NOAA published a **Federal Register** notice finalizing the methods, formulas and rationale for the calculations it uses to assess fees associated with the existing seven SUP categories (80 FR 72415).

NOAA will use the same methods previously established in the **Federal Register** for assessing an application fee, administrative costs, and implementation and monitoring costs of this new SUP category. NOAA will require a non-refundable $50 application fee. The labor costs assessed, as part of administrative costs, will be based on a Federal regional labor rate that will be updated every year to account for staff changes as well as inflation. Administrative costs will include: Any environmental analyses and consultations associated with evaluating the SUP application and issuing the permit; equipment used in permit review and issuance (*e.g.,* vessels, dive equipment, and vehicles); and general overhead. The administrative fees may be assessed even if after full environmental review, it is deemed that an authorization or SUP is not appropriate and will not be issued by MBNMS. Where applicable, applicants would be notified of the estimate of the fees resulting from administrative costs at the onset of the application process and would need to acknowledge willingness to pay before NOAA processes the permit application. The permit issuance would be conditioned on payment of these fees. For desalination projects that have submitted complete permit applications and are in the environmental review process as of the effective date of this notice, SUP fees will not be assessed retroactively but may be assessed moving forward beginning on the effective date of this notice.

NOAA may also assess a fee for costs associated with the conduct or implementation of a permitted activity as well as the costs of monitoring the activity. The latter costs would cover the expenses of monitoring the impacts of a permitted activity and compliance with the terms and conditions of the permit. Examples of implementation and monitoring costs can include the cost of site preparation, site examination, and the use of vessels and aircraft.

Lastly, NOAA can assess a fee for fair market value (FMV) for use of sanctuary resources. NOAA's method for assessing FMV for this new category of SUP is described in subsequent sections of this **Federal Register** notice.

II. Description of New Special Use Permit Category

With this final notice, NOAA adds a new category of SUP for ''the continued presence of a pipeline transporting seawater to or from a desalination facility''. At this time, the special use permit category goes into effect immediately upon the effective date of this notice and fees may be assessed from this date going forward.

NOAA determined that pipelines transporting seawater for purposes of onshore desalination, that have been laid on, attached to, or drilled or bored within the submerged lands of a national marine sanctuary, after appropriate environmental review, application of best management practices, and compliance with *MBNMS Desalination Guidelines,* could remain in place without causing injury to sanctuary resources. Therefore, NOAA's establishment of an SUP category is appropriate. For purposes of this SUP category, NOAA is using ''transporting seawater to or from a desalination facility'' to mean water being pumped from MBNMS or the submerged lands of MBNMS into a facility and/or concentrated brine water being pumped out of a facility through a pipe and into MBNMS (brine discharge is addressed below).

In order to avoid or minimize impacts to the marine environment due to the presence of the pipeline, the best management practices (BMP) from the *MBNMS Desalination Guidelines* will be followed to ensure proper siting, sizing, engineering, and configuration of intake and outfall pipelines. New desalination pipelines are manufactured with high tensile stainless steel to avoid breakage or corrosion in seawater and would be monitored annually to evaluate their continued integrity. Submerged pipelines should have little propensity for movement or shifting. There are many pipelines associated with power plants and wastewater facilities in this region that have been in existence for more than 50 years with little to no adverse impacts due to their presence on the seafloor (MLML 2006; MRWPCA 2014).

Existing pipelines installed prior to the publication of the final **Federal Register** notice for this new SUP category are exempt from this SUP category. Moreover, existing pipelines that do not fall under the purview of this SUP category include sewage treatment plant, power plant and aquaculture facility pipes.

III. Fair Market Value Calculation

NOAA will use the same methods previously established in the **Federal Register** for assessing an application fee, administrative costs, and implementation and monitoring costs of the new SUP category (November 19, 2015; 80 FR 72415).

The annual fair market value for the continued presence of a pipeline transporting seawater to or from a desalination facility will be calculated by assessing the volume of the pipeline in cubic inches multiplied by a value of $0.02 per cubic inch. The annual FMV equation is:

$$\text{Annual FMV} = ((V \times \$0.02/\text{in}^3) \times N)/\text{yr}$$

Where:

V = volume of the pipeline (in^3) = $((\pi \times r^2) \times L)$;
π = 3.14159;
r = radius of the pipeline (in); and
L = length of the pipeline (in) for the portion within the sanctuary. For more than one pipeline, the average length of all pipelines will be calculated.
N = number of pipelines.

FMV costs will be paid as annual rent for the duration of the permit. In developing the FMV calculation for this SUP category, NOAA examined: A conceptually similar SUP category for the continued presence of submarine cables; the California State Lands Commission (CSLC) lease process for pipelines, conduit, or fiber optic cables; and offset requirements established by CSLC for an open water desalination project in Southern California.

NOAA's FMV calculation for the continued presence of submarine cables in a national marine sanctuary uses the overall linear distance (length) the infrastructure occupies on or within the seafloor within the sanctuary in assessing FMV (''Fair Market Value Analysis for a Fiber Optic Cable Permit in National Marine Sanctuaries''; 67 FR 55201). NOAA's FMV methodology to assess a fee for the presence of a pipeline uses the volume of the pipeline, which includes both its length (linear distance) and area, thus accounting for its total presence on or within the submerged lands.

In addition, NOAA surveyed comparable fees assessed by the State of California for the issuance of leases in submerged lands of the state for pipelines, conduits or fiber optic cables. The value of $0.02 per cubic inch of pipeline was established because NOAA considers this to be a similar metric (*i.e.,* a state lease for allowing pipelines) to one of the options the CSLC uses to calculate the cost of the issuance of leases in submerged lands of the state for pipelines, conduits or fiber optic cables (CCR Title 2. Division 3. Chapter 1. Article 2 CCR 2003. (Rent and other considerations)(a)(4)). In order to calculate the cost, the CSLC uses one of three approaches: A cost based on a linear value (cost per diameter inch per lineal foot of pipe, cable, conduit within the state lands); a case by case rate to process an environmental impact report which is paid upfront; or nine percent of the appraised value of the leased land. In order to calculate the FMV of the continued presence of a pipeline, NOAA selected to use a mathematical approach based on the size and footprint of the project pipelines within the sanctuary. Therefore, NOAA's monetary multiplier is comparable to the first approach the CSLC could consider.

Example

In the FMV example provided below, a special use permit for a desalination plant project includes one, 100-foot long seawater intake pipelines with a 15-inch radius to be bored into the submerged lands of a sanctuary.

$$\text{Annual FMV} = ((V \times \$0.02/\text{in}^3) \times N)/\text{yr}$$

$V = (\pi r^2 \times L)$
π = 3.14159
r = 15 in
L = (100 ft) × (12 in/ft) = 1200 in
$V = 3.14159 \times (15 \text{ in})^2 \times 1200 \text{ in} = 848{,}230 \text{ in}^3$
N = number of pipelines = 1
Annual FMV = $((848{,}230 \text{ in}^3 \times \$0.02/\text{in}^3) \times 1)/\text{yr}$
Annual FMV for a pipeline of this size = $16,964/yr.

This annual cost would be applicable for the length of the permit.

Using the above calculation, a single pipeline of this size would have an annual FMV of $16,964/yr. This arrangement could be used for a desalination facility that would produce approximately one million gallons of water per day or 365 million gallons of water per year. Thus, the example of the FMV for the continued presence of 1 pipeline within MBNMS would add a cost of $0.0000465/gallon, or approximately 1 cent for every 215 gallons of freshwater produced. This figure is obtained by dividing the FMV for the continued presence of a pipeline by 365 million gallons/year, since the example assumes a one million gallons per day capacity. The calculation is: ($16,964/year)/(365 million gallons/year) = $0.0000465/gallon.

Cost Comparison for Open Water Intake Desalination Facility

In addition to the comparison method described above for charging for the volume of the pipeline in cubic inches, NOAA also looked at a similar open water pipeline project in Southern California that uses desalination to provide drinking water in order to estimate the magnitude of costs of regulatory compliance (not fair market value) associated with the permitting of desalination facilities in a real-world setting. That open water pipeline project was proposed by Cabrillo, LLC and Poseidon, LLC and received a permit by the California Coastal Commission in 2008. The CSLC required the project to invest in various offset and restoration efforts to mitigate the impacts of the facility, such as obtaining 25,000 tons of carbon offsets for the construction and operational impacts. In that project, the average offset price from 2011 to 2016 was $14.87 per ton of carbon offset, for a total of $371,750. In addition, the facility was required to restore a minimum of 37 acres of wetlands (up to 55.4 acres) with a non-cancelable deposit of $3.7 million and to provide a deposit of $25,000 to the CSLC to reimburse staff expenses incurred to monitor compliance with the terms of the lease. While these costs associated with environmental compliance are not directly comparable with the FMV for this new SUP category, they provide context for the scale of costs required by various agencies to permit or authorize large coastal projects such as a desalination plant.

Conclusion

The fees that NOAA may assess per the above calculations are comparable to other agencies' fees for desalination facilities and not prohibitively expensive. For a proposed desalination project that would require an SUP, NOAA considered the annual cost of the fees based on the example presented in this notice, and converted it to a dollar per gallon figure that can be applied to future proposed projects of varying size and scale. NOAA determined that the total cost of the fair market value using the SUP category would amount to approximately $0.0000465/gallon for a facility of a scale similar to the example used in this notice (*i.e.,* one 100-foot pipelines for a 1 MGD facility). As stated above, this would be in addition to the potential administrative cost associated with the issuance of the permit, including the environmental review and application review of an SUP, and implementation and monitoring costs, as appropriate.

This notice finalizes the list of eight categories for which the requirements of SUPs would be applicable:

1. The placement and recovery of objects associated with public or private events on non-living substrate of the

submerged lands of any national marine sanctuary.

2. The placement and recovery of objects related to commercial filming.

3. The continued presence of commercial submarine cables on or within the submerged lands of any national marine sanctuary.

4. The disposal of cremated human remains within or into any national marine sanctuary.

5. Recreational diving near the USS *Monitor.*

6. Fireworks displays.

7. The operation of aircraft below the minimum altitude in restricted zones of national marine sanctuaries.

8. The continued presence of a pipeline transporting seawater to or from a desalination facility in the Monterey Bay National Marine Sanctuary.

IV. Waiver or Reduction of Fees

As described in the November 19, 2015, **Federal Register** notice (80 FR 72415), NOAA may accept in-kind contributions in lieu of a fee, or waive or reduce any fee assessed for any activity that does not derive profit from the access to or use of sanctuary resources. NOAA may consider the benefits of the activity to support the goals and objectives of the sanctuary as an in-kind contribution in lieu of a fee.

V. Changes Between Proposed Notice and Final Notice

Based on NOAA's analysis of the topics raised during the public comment period, NOAA made several changes between the notice of proposed new SUP categories and this final notice.

First, NOAA removed the proposed SUP category for the use of sediment to filter seawater for desalination. While NOAA is confident in the method it developed for the calculation of FMV for this category, it recognizes that this SUP category may not always meet the ''no injury'' criteria for SUPs specified in the NMSA for all sites. In addition, it may be interpreted as a disincentive against the use of subsurface intakes of water, which is the method recommended in the 2010 guidelines.

Second, NOAA has limited the applicability of the remaining SUP category (for the continued presence of a pipeline transporting seawater to and from a desalination facility) to MBNMS instead of applying it to the National Marine Sanctuary System, for the following reasons. While all of the sanctuaries have authority to issue SUPs, only six national marine sanctuaries currently have regulations enabling them to issue authorizations: Florida Keys, Flower Garden Banks, Monterey Bay, Olympic Coast, Stellwagen Bank, and Thunder Bay. Of these sites, Florida Keys and Olympic Coast NMSs are the only sites adjacent to land where desalination facilities could be placed; therefore, they are the only two national marine sanctuaries in addition to MBNMS where the proposed SUP categories could have applied. These two national marine sanctuaries are in very different ecosystems than MBNMS, and NOAA based its evaluation of the likelihood of injury to sanctuary resources on central California examples. In addition, the cost methods for this category were regionally based in California. Therefore, NOAA decided that it was not appropriate to extend the remaining SUP category to other national marine sanctuaries at this time, although it may revisit this issue in the future as necessary and appropriate.

The estimated cost per gallon of desalinated water as proposed in the January notice is reduced from $0.00008/gallon to approximately $0.00005/gallon in this final notice, reflecting the annual FMV for the continued presence of a pipeline and removing the additional cost for the use of sediment to filter the water in the example provided.

IV. Response to Comments

NOAA received seven individual submissions on the draft **Federal Register** notice, docket #NOAA–NOS–2016–0156. NOAA sorted and organized the seven submissions into 27 unique comment topics. NOAA's response to these comments follows.

Comment 1: Marine sanctuaries were designated for having special resources, and as such, they deserve enhanced protection. These activities should be sited outside of sanctuary boundaries, or NOAA should not allow any new pipelines in sanctuaries.

Response: The NMSA directs NOAA to allow public and private uses of the resources to the extent compatible with resource protection. NOAA evaluates impacts of any intake pipelines through the NEPA (and CEQA analysis as appropriate). An SUP could only be issued if the activity is conducted in a manner that does not destroy, cause the loss of, or injure sanctuary resources.

Comment 2: Requiring two permits for a single pipeline appears inconsistent with ONMS's statutory authority under 16 U.S.C. 1441(a).

Response: Under 16 U.S.C. 1441(a), NOAA has the authority to issue special use permits if necessary to ''establish conditions of access to and use of any sanctuary resource; or promote public use and understanding of a sanctuary resource.'' The issuance of an SUP for desalination activities would establish conditional long-term use of a sanctuary resource (the substrate, seafloor, and/or water column); therefore, NOAA believes that the SUP category is consistent with 16 U.S.C. 1441(a).

The general sanctuary and MBNMS regulations also provide for the authorization of other State and Federal permits as a separate type of permit necessary to allow an activity otherwise prohibited by regulation. The activities that may be subject to such authorization (for example, a NPDES permit for discharges) are different from the activity within the scope of this SUP category. Together, the issuance of SUPs and authorizations ensure sanctuary resource protection while allowing compatible uses, in alignment with the policies and purposes of the NMSA.

Comment 3: The proposed new SUP categories are duplicative of approvals ONMS can grant using existing authority and would impose unnecessary regulatory burden and substantial unjustified costs.

Response: The authorization of the applicable State permits for a desalination plant would only address allowing the prohibited activity at issue, and if issued for a desalination plant it would cover the construction of a pipeline or discharge of brine. The activities that may be subject to such authorization are different from the activity within the scope of this SUP category. Authorizations do not address the FMV of the private use of a public resource or provide a mechanism for assessing and applying costs of the use of this resource to sanctuary management.

As described above, NOAA has determined that an SUP is an appropriate mechanism for NOAA to approve the continued presence of a pipeline and assess and apply applicable costs in a manner that allows desalination projects to occur within or near MBNMS and to facilitate the more efficient administration of desalination permits. In addition, the current ONMS permit application process allows for multiple permits and authorizations to be issued under one permit application, thereby streamlining the permit application process.

The fees associated with SUPs have been used by NOAA for various other SUP categories. The fee categories include administrative costs per 16 U.S.C. 1441(d)(2)(A), implementation and monitoring costs per 16 U.S.C. 1441(d)(2)(B), and FMV per 16 U.S.C. 1441(d)(2)(C) for use of sanctuary resources. NOAA believes these costs are appropriate to properly assess a

desalination facility operating in a national marine sanctuary.

Comment 4: Test slant well permits were issued without this SUP category, and permits issued for that project contained conditions, such as requiring monitoring. NOAA should do what it has previously done.

Response: NOAA began consideration for this new SUP category during the NEPA review for the California American Water test well pilot project, and has now completed the SUP process through the issuance of this final notice. As described above, NOAA has concluded that an SUP category was needed and appropriate for the continued existence of pipelines transporting seawater to and from a desalination facility; therefore, NOAA began to pursue the new category for desalination facilities. This approach is in line with past large-scale and intensive infrastructure projects like the submarine cable SUP category. In looking at NOAA's history, SUPs for ''the continued presence of submarine cables'' were issued along with authorizing other state and federal permits as needed prior to the development of that category for SUPs. Since the two authorizations for the test well were issued prior to this final notice, that pipeline will be considered existing and therefore exempted.

Comment 5: California American Water commented that the company provided some financial assistance for environmental review of the large-scale Monterey Peninsula Water Supply Project (MPWSP) by paying for a portion of the Federal labor costs, and should not be charged additional administrative fees.

Response: The environmental review for the MPWSP involved re-writing an extensive environmental impact review (EIR), as required by CEQA, and adding the components necessary to meet the standards of an Environmental Impact Statement (EIS) under NEPA. This resulted in a document that was over 1,500 pages for the joint EIR/EIS, and included over 2,000 pages of appendices. The applicant was required by the State of California to pay for the cost of the California Public Utilities Commission (CPUC) environmental review, which involved a large team, working over multiple years to produce the document. CalAm paid for a NEPA consultant through the CPUC, but has not paid for any federal labor costs for MBNMS staff related to the NEPA process or permit application. No retroactive fees would be assessed; fees may only be assessed following the effective date of this notice and appropriate notice to CalAm. For the reasons stated throughout this notice, NOAA has determined that SUP fees for the continued existence of desalination pipelines are needed and appropriate.

Comment 6: If ONMS decides to finalize the new SUP categories, they should not apply to the MPWSP because of the retroactive effect they would have on the project. This project has been underway for many years, and NOAA's action would add significant costs to the project.

Response: NOAA would not retroactively assess fees for any costs incurred prior to the publication of this final notice. When the new category takes effect, existing applicants will be notified that the SUP category exists, and that fees may start to be assessed for the processing of that permit application. After that notification to the applicants, fees will be assessed from that date going forward.

The MPWSP permit application was received in 2015, and NOAA has made every effort to inform the permit applicants of its intent to develop a new SUP category for desalination to cover some of these federal costs for the environmental review as well as future monitoring and other costs.

Comment 7: Adding SUP categories for some desalination activities and using existing authority for others (*i.e.;* brine discharge and construction) creates additional regulatory barriers for desalination projects.

Response: The addition of an SUP does not result in additional regulatory barriers for desalination projects. With the use of a single permit application for various authorizations and permits, NOAA intends to streamline the application process and reduce the burden on the applicant. An applicant would still need only submit one permit application, and NOAA determines the types of permits required for any activities, as it always has. Similarly, SUP categories are assessed through the same federal environmental review process pursuant to the NEPA and CEQA, as required, by which permits for disturbance of the seabed or discharge activities are evaluated.

Moreover, as described above, NOAA has determined that a SUP category is necessary and appropriate to cover the continued existence of pipelines transporting seawater to and from a desalination facility. Carrying out a proposed desalination project in or near a national marine sanctuary requires agency review and permit approval before going forward. NOAA's authorizing state and federal permits for construction (coastal development) and brine discharge (NPDES) are considered under authorization regulations, and do not require that NOAA make a finding of no injury or loss to sanctuary resources. NOAA may also issue general permits for short-term activities, which are generally not ''intrusive''. Because a pipeline would continually be in long-term use (at least five years up to the life of the project), NOAA has considered this operation and extractive use as a separate activity under the statutory authority of NMSA Section 310, which requires monitoring and a fair market value for its use of a sanctuary resource (the substrate, seafloor, and/or water column).

Comment 8: Open ocean intakes should be precluded from use in sanctuary waters as a matter of policy.

Response: In 2010, NOAA published guidance recommending subsurface water intake for desalination projects rather than open ocean intakes. The comment to preclude open ocean intakes through regulation is beyond the scope of this action.

Comment 9: NOAA should establish a third category of SUP for open ocean intakes, or combine open ocean intakes with subsurface intakes into a single SUP category for intakes.

Response: The SUP category for the ''presence of a pipeline'' being finalized with this action includes pipelines placed both below and attached to the surface of the seafloor and would include open water intakes.

Comment 10: Commenters also advocate for the inclusion of an additional category of SUP for brine discharges from desalination facilities primarily because additional monitoring would be needed.

Response: SUPs cannot be issued for any activity that injures sanctuary resources. At this time, NOAA cannot determine categorically that brine discharges would not have negative impacts on sanctuary resources; therefore, brine discharges are not appropriate categories for an SUP. However, NOAA is reviewing and may authorize the NPDES permit for brine discharges for desalination, with terms and conditions for monitoring any potential impacts as needed. Both an SUP and an authorization may require continued monitoring and reporting for the life of the project.

Comment 11: Authorization of permits granted by other agencies may or may not prevent sanctuary resources (including marine life) from being destroyed, lost, or injured.

Response: The comment is accurate. The NMSA directs NOAA to allow public and private uses of the resources to the extent compatible with resource protection. 16 U.S.C. 1431(b)(6). The MBNMS regulations do not require a

finding of no injury for the issuance of an authorization (15 CFR 922.49,). An authorization can be issued for certain prohibited activities to occur, after thorough analysis of impacts to sanctuary resources through the NEPA process.

Comment 12: As currently written, it is unclear whether a desalination project would need to obtain one or two separate permits for the ''continued presence of a pipeline'' category to accommodate both an intake pipeline and discharge pipeline. This could lead to inconsistent application of rule, as well as create yet another disincentive for using subsurface intakes.

Response: NOAA does not differentiate between an intake or discharge pipeline. This SUP category is intended to apply to any new pipeline transporting seawater to or from a desalination facility that will have a continued presence in the sanctuary.

Comment 13: The category description should use clear language so that permit standards are consistent with the most current information available. Does NOAA intend to update the MBNMS Desalination Guidelines published in 2010 to account for new information?

Response: At this time, the recommendations in the 2010 Desalination Guidelines are still appropriate. If new information becomes available that would require NOAA to update the guidelines with new recommendations, NOAA would do so. NOAA will incorporate the most current standards in any permit condition when issuing an authorization or an SUP.

Comment 14: NOAA's proposed SUP fees for the continuing presence of pipelines are duplicative of other state or local agencies fees (*e.g.;* CSLC).

Response: It is not uncommon for multiple agencies to charge a fee for permits and/or leases for use of a public resource. When a project is proposed within the boundaries of MBNMS, it is NOAA's responsibility to assess the risk of issuing the permit and, if appropriate, apply its permitting authority as mandated by the NMSA. The fees associated with this SUP are designed to facilitate and streamline the federal responsibility to assess and monitor the potential impacts of a private use of a public resource. This is separate from, and occurs in addition to, the fees and costs associated with the issuance of the state permits.

Comment 15: The costs imposed by these new SUP categories could deter investments in desalination plants, which are needed in California to alleviate water shortages.

Response: NOAA understands and appreciates the need to alleviate water shortages in California. NOAA's action in creating this permit category is taken in response to this need to fulfill the NMSA purpose of facilitating uses of sanctuary resources to the extent compatible with resource protection. The SUP fees would be a small percentage of the overall costs of the desalination project and would be calculated in a way comparable to State fees and fees previously assessed by NOAA in similar circumstances (such as for submarine cables in sanctuaries). Based on NOAA's analysis of these prior transactions and experience with infrastructure projects in sanctuaries, the SUP fees are unlikely to have a significant deterrent effect.

Comment 16: The two categories of SUP fees will discourage the development of subsurface intakes, the very design that NOAA has recommended and prefers to reduce environmental impacts in sanctuaries.

Response: NOAA believes that subsurface feasibility will be determined by the appropriate studies, design and citing of the project. The SUP category for ''presence of a pipeline'' would apply to varied types of intakes. In addition, NOAA's decision to eliminate the proposed second category, for the use of sediment for filtration, reduces the overall fees and results in equal treatment for the continuing presence of a pipeline regardless of the type of intake.

Comment 17: The agency should not charge fees when the ''FMV'' of the sediment, however calculated, is offset by increased costs incurred to minimize impacts to marine life in the sanctuary (*i.e.* the subsurface wells cost more money to install than open-ocean intakes).

Response: NOAA's consideration of the proposed SUP categories for desalination facilities has taken into account most costs and fees related to these projects. Nonetheless, NOAA has eliminated the proposed second category, for the use of sediment for filtration. This would reduce the overall fees for a subsurface intake project.

Comment 18: SUP categories of general applicability that target one state are inappropriate.

Response: NOAA initially proposed to apply the SUP categories for desalination to the whole National Marine Sanctuary System, but noted that only three sanctuaries would ever likely need to consider a desalination project: Olympic Coast, Florida Keys, and Thunder Bay NMSs. NOAA acknowledges that the majority of studies from desalination projects used in the analysis were based in California, because that was the best available information. This is one of the reasons NOAA has decided to narrow the scope of the SUP so that it only applies to MBNMS.

Comment 19: Pipelines related to sewage treatment and power generation are more widespread than desalination plants and should be analyzed in a similar fashion. ONMS offers no valid justification for singling out desalination plants in California for SUPs.

Response: The proposed SUP **Federal Register** notice explicitly noted that the need for new additional pipelines for sewage treatment and power generation has not been established as most of the infrastructure for the existing facilities has been in place for many years. In contrast, desalination, or the need for a stable potable water supply, is a current issue along the West Coast with well documented studies on the topic. This is the same approach NOAA has taken in the past. In the 2006 SUP notice NOAA stated:

> The list of categories of activities in this notice are not necessarily those activities NOAA thinks will be increasing in frequency in the future. Rather, the list represents all categories of activities for which NOAA has issued special use permits in the last few years or for which NOAA expects to receive an application in the near future (71 FR 4898).

Moreover, given NOAA is now finalizing this SUP category to apply only in MBNMS, it is worth noting that MBNMS has specific regulatory language that does not allow permits to be issued to allow new sewage disposal facilities in the sanctuary. 15 CFR 922.132(f).

Comment 20: The FMV calculation for the pipeline SUP is unreasonable and should be revisited.

Response: The FMV calculation is a similar metric to one of the options the State uses to calculate the cost of the issuance of leases in submerged lands of the State for pipelines, conduits, or fiber optic cables. The calculation for the volume of the pipeline, which includes both its length and area, accounts for its total presence on or within the submerged lands. NOAA believes the FMV would add very little additional cost to the production of fresh water (at approximately 1 cent for every 215 gallons of water produced), for one hypothetical design comparable to what is being considered for coastal California.

Comment 21: Some of the pipelines in question will actually be bored as slant wells into subsurface aquifers. This is not ''filtering'' and no fee should be

charged for the use of sand as ''filtration''.

Response: NOAA believes that the proposed SUP category for the use of sediment as filtration was justified and provided references in the proposed notice. Nevertheless, NOAA has elected to remove the SUP for ''use of sediment to filter seawater for desalination''.

Comment 22: In the fiber optic cable context, NOAA economists issued an economic report describing and applying accepted methodologies for calculating FMV. This FMV should undergo the level of analysis conducted in that example.

Response: Given the limited availability of studies for this activity, NOAA believes the level of analysis conducted for the desalination SUP category is sufficient, but will continue to monitor this activity. If additional information becomes available or relevant for FMV calculation, NOAA will revisit the issue and may, as needed, revise the FMV calculation.

Comment 23: The FMV for sand filtration bases its calculation on the price of a commercially sold cubic foot of sand, discounted for overhead. This is not a reasonable comparison, given less costly means of filtration.

Response: NOAA did not base the calculation of the FMV on the price of a commercially sold cubic foot of sand. Rather, NOAA compared that cost to the FMV calculated for this use to provide perspective in an area where little data is available. NOAA has elected to remove the SUP for ''use of sediment to filter seawater for desalination'' as described above.

Comment 24: The agency fails to recognize that pretreatment is still necessary even for subsurface intakes.

Response: NOAA did not intend to imply that pre-treatment was not necessary for subsurface intakes. Rather, NOAA compared the information about pre-treatment cost to provide perspective in an area where little data is available.

Comment 25: SUPs were not raised as a potential requirement for desalination projects prior to this notice. SUPs were also not included in the *2010 Desalination Guidelines.*

Response: While NOAA did not formally have categories for this activity until now, NOAA has made every effort to inform existing permit applicants of its intent to develop new SUP categories for desalination since 2015. It is NOAA's responsibility to determine the appropriate type of permit for any permit application, whether a sanctuary general permit, authorization, or SUP. At the time of publishing the 2010 guidelines, NOAA had not yet conducted a full analysis of potential SUP categories for desalination facilities. Since then, NOAA has conducted this analysis and has considered statutory and regulatory factors, including the no-injury threshold for SUPs, the nature of a desalination pipeline as a continued use of public resources in a way that may preclude other use of the resource, the ability of the agency to combine and streamline its permitting and environmental review regardless of an additional SUP category, and the ability to apply SUP fees to facilitate more efficient issuance and administration of desalination permits and sanctuary management under NMSA Section 310(d)(3).

Comment 26: The agency should clarify that it does not intend to charge fees for portions of the pipeline that are not on or below the sanctuary lands.

Response: The explanation on charging fees only for portions of pipelines in the sanctuary is included in this **Federal Register** notice under Section III. When defining the length of the pipeline for the pipeline SUP category, it states ''L = length of the pipeline (in) for the portion within the sanctuary''. NOAA will not include the portion of the pipeline that is above the mean high water mark.

Comment 27: NOAA should allow recreational fishing in sanctuaries.

Response: This comment is beyond the scope of this action.

V. Classification

A. National Environmental Policy Act

NOAA has concluded that this action will not have a significant effect, individually or cumulatively, on the human environment. This action is categorically excluded from the requirement to prepare an Environmental Assessment or Environmental Impact Statement in accordance with the NOAA Categorical Exclusion G7 and because there are no extraordinary circumstances precluding the application of this categorical exclusion. Specifically, this action is a notice of an administrative and legal nature, and any future effects of subsequent actions are too broad, speculative, or conjectural to lend themselves to meaningful analysis and will be subject to later NEPA analysis. This action would only establish the two new special use permit categories and the methods for calculating fair market value for applicable projects. It does not commit the outcome of any particular federal action taken by NOAA. Furthermore, individual permit actions taken by ONMS will be subject to additional case-by-case analysis, as required under NEPA, which will be completed as new permit applications are submitted for specific projects and activities. In addition, NOAA may, in certain circumstances, combine its special use permit authority with other regulatory authorities to allow activities not described above that may result in environmental impacts and thus require the preparation of an environmental assessment or environmental impact statement. In these situations, NOAA will ensure that the appropriate NEPA documentation is prepared prior to taking final action on a permit or making any irretrievable or irreversible commitment of agency resources. The NEPA analysis would describe the impacts of the full project (*i.e.,* both construction (allowed with an authorization) and operations (allowed with an SUP)).

B. Paperwork Reduction Act

Notwithstanding any other provisions of the law, no person is required to respond to, nor shall any person be subject to a penalty for failure to comply with a collection of information subject to the requirements of the Paperwork Reduction Act (PRA), 44 U.S.C. 3501 *et seq.,* unless that collection of information displays a currently valid Office of Management and Budget (OMB) control number. Applications for the special use permits discussed in this notice involve a collection-of information requirement subject to the requirements of the PRA. OMB has approved this collection-of-information requirement under OMB control number 0648–0141. The collection-of-information requirement applies to persons seeking special use permits and is necessary to determine whether the proposed activities are consistent with the terms and conditions of special use permits prescribed by the NMSA. Public reporting burden for this collection of information is estimated to average twenty four (24) hours per response (application, annual report, and financial report), including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. This estimate does not include additional time that may be required should the applicant be required to provide information to NOAA for the preparation of documentation that may be required under NEPA.

Authority: 16 U.S.C. 1431 *et seq.*

Dated: August 11, 2017.

John Armor,

Director, Office of National Marine Sanctuaries.

References

1. MBNMS Guidelines for Desalination Plants in the MBNMS; May 2010, online: *http://montereybay.noaa.gov/resourcepro/resmanissues/pdf/050610desal.pdf.*
2. ONMS Fair Market Value Analysis for a Fiber Optic Cable Permit in National Marine Sanctuaries, Aug 2002.
3. NOAA Final Notice of Applicability of Special Use Permit Requirements to Certain Categories of Activities Conducted Within the National Marine Sanctuary System; May 2013, online: *http://sanctuaries.noaa.gov/management/fr/78fr25957.pdf.*
4. NOAA Notice of Applicability of Special Use Permit Requirements to Certain Categories of Activities Conducted Within the National Marine Sanctuary System; January 2013, online: *https://sanctuaries.noaa.gov/management/fr/78fr2957.pdf.*
5. NOAA Office of National Marine Sanctuaries Final Policy and Permit Guidance for Submarine Cable Projects; September 2011, online: *http://sanctuaries.noaa.gov/management/fr/submarinecablespolicy.pdf.*
6. Moss Landing Marine Lab, Ecological Effects of the Moss Landing Powerplant Thermal Discharge; June 2006.
7. Ballard Marine Construction report prepared for Monterey Regional Water Pollution Control Agency; 2014.
8. Chambers Group Memo: Pretreatment and Design Considerations for Large-Scale Seawater Facilities; 2010, online: *http://www.mwdoc.com/cms2/ckfinder/files/files/Evaluation%20of%20Potential%20Impacts%20%20to%20Marine%20Life%20by%20Slant%20Wells%20-%20MLPA%20DEIR%20Comment%202010-10-13.pdf.*
9. NOAA National Centers for Environmental Information Web site; Table 1; online: *https://www.ngdc.noaa.gov/mgg/global/etopo1_ocean_volumes.html.*
10. Final Notice of Fee Calculations for Special Use Permits; 80 FR 72415 (November 19, 2015); online: *https://www.federalregister.gov/documents/2015/11/19/2015-29524/final-notice-of-fee-calculations-for-special-use-permits.*
11. Final Notice of Applicability of Special Use Permit Requirements to Certain Categories of Activities Conducted Within the National Marine Sanctuary System; 71 FR 4898 (January 30, 2006); online: *https://www.federalregister.gov/documents/2006/01/30/06-808/final-notice-of-applicability-of-special-use-permit-requirements-to-certain-categories-of-activities.*

[FR Doc. 2017–18995 Filed 9–6–17; 8:45 am]

BILLING CODE 3510–NK–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XF640

Fisheries of the Exclusive Economic Zone Off Alaska; Alaska Groundfish and Halibut Seabird Working Group; Public Meeting

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of public meeting.

SUMMARY: NMFS Alaska Groundfish and Halibut Seabird Working Group will meet to discuss emerging seabird mitigation technologies and additional seabird species that could warrant more attention as bycatch in fisheries off Alaska.

DATES: The meeting will be held on September 21, 2017, from 1 p.m. to 5 p.m., and on September 22, 2017, from 8 a.m. to 11:30 a.m., Alaska Daylight Time.

ADDRESSES: The meeting will be held at the NMFS Alaska Regional Office located at 709 W. 9th St., Room 445C, Juneau, AK. Photo identification is required to enter this facility.

FOR FURTHER INFORMATION CONTACT: Anne Marie Eich, 907–586–7172.

SUPPLEMENTARY INFORMATION: The Alaska Groundfish and Halibut Seabird Working Group formed as a result of the 2015 biological opinion on effects of the Gulf of Alaska and Bering Sea/Aleutian Islands groundfish fisheries on short-tailed albatross. The working group is tasked with reviewing information for mitigating effects of the groundfish fisheries on short-tailed albatross and other seabirds. The working group will hold its first in-person meeting in Juneau, AK, on September 21 and 22, 2017. Meeting topics include emerging seabird mitigation technologies and additional seabird species that could warrant more attention as bycatch in fisheries off Alaska. NMFS will keep the North Pacific Fishery Management Council (Council) apprised of the working group's activities and any resulting recommendations for methods to reduce seabird bycatch. Any changes to seabird avoidance regulations are expected to follow the standard Council process.

Special Accommodations

This workshop will be physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Anne Marie Eich, 907–586–7172, at least 5 working days prior to the meeting date.

Dated: September 1, 2017.

Alan D. Risenhoover,

Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 2017–18960 Filed 9–6–17; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XF603

Takes of Marine Mammals Incidental to Specified Activities; Taking Marine Mammals Incidental to Casitas Pier Fender Pile Replacement

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice; proposed incidental harassment authorization; request for comments.

SUMMARY: NMFS has received a request from Venoco, LLC (Venoco) for authorization to take marine mammals incidental to fender pile replacement at Casitas Pier in Carpinteria, CA. Pursuant to the Marine Mammal Protection Act (MMPA), NMFS is requesting comments on its proposal to issue an incidental harassment authorization (IHA) to incidentally take marine mammals during the specified activities. NMFS will consider public comments prior to making any final decision on the issuance of the requested MMPA authorizations and agency responses will be summarized in the final notice of our decision.

DATES: Comments and information must be received no later than October 10, 2017.

ADDRESSES: Comments should be addressed to Jolie Harrison, Chief, Permits and Conservation Division, Office of Protected Resources, National Marine Fisheries Service. Physical comments should be sent to 1315 East-West Highway, Silver Spring, MD 20910 and electronic comments should be sent to *ITP.Young@noaa.gov.*

Instructions: NMFS is not responsible for comments sent by any other method, to any other address or individual, or received after the end of the comment period. Comments received electronically, including all attachments, must not exceed a 25-megabyte file size. Attachments to electronic comments will be accepted in

Microsoft Word or Excel or Adobe PDF file formats only. All comments received are a part of the public record and will generally be posted online at *www.nmfs.noaa.gov/pr/permits/incidental/construction.htm* without change. All personal identifying information (*e.g.,* name, address) voluntarily submitted by the commenter may be publicly accessible. Do not submit confidential business information or otherwise sensitive or protected information.

FOR FURTHER INFORMATION CONTACT: Sara Young, Office of Protected Resources, NMFS, (301) 427–8401. Electronic copies of the application and supporting documents, as well as a list of the references cited in this document, may be obtained online at: *www.nmfs.noaa.gov/pr/permits/incidental/construction.htm.* In case of problems accessing these documents, please call the contact listed above.

SUPPLEMENTARY INFORMATION:

Background

Sections 101(a)(5)(A) and (D) of the MMPA (16 U.S.C. 1361 *et seq.*) direct the Secretary of Commerce (as delegated to NMFS) to allow, upon request, the incidental, but not intentional, taking of small numbers of marine mammals by U.S. citizens who engage in a specified activity (other than commercial fishing) within a specified geographical region if certain findings are made and either regulations are issued or, if the taking is limited to harassment, a notice of a proposed authorization is provided to the public for review.

An authorization for incidental takings shall be granted if NMFS finds that the taking will have a negligible impact on the species or stock(s), will not have an unmitigable adverse impact on the availability of the species or stock(s) for subsistence uses (where relevant), and if the permissible methods of taking and requirements pertaining to the mitigation, monitoring and reporting of such takings are set forth.

NMFS has defined ''negligible impact'' in 50 CFR 216.103 as an impact resulting from the specified activity that cannot be reasonably expected to, and is not reasonably likely to, adversely affect the species or stock through effects on annual rates of recruitment or survival.

The MMPA states that the term ''take'' means to harass, hunt, capture, kill or attempt to harass, hunt, capture, or kill any marine mammal.

Except with respect to certain activities not pertinent here, the MMPA defines ''harassment'' as: Any act of pursuit, torment, or annoyance which (i) has the potential to injure a marine mammal or marine mammal stock in the wild (Level A harassment); or (ii) has the potential to disturb a marine mammal or marine mammal stock in the wild by causing disruption of behavioral patterns, including, but not limited to, migration, breathing, nursing, breeding, feeding, or sheltering (Level B harassment).

National Environmental Policy Act

To comply with the National Environmental Policy Act of 1969 (NEPA; 42 U.S.C. 4321 *et seq.*) and NOAA Administrative Order (NAO) 216–6A, NMFS must review our proposed action (*i.e.,* the issuance of an incidental harassment authorization) with respect to potential impacts on the human environment.

This action is consistent with categories of activities identified in CE B4 of the Companion Manual for NOAA Administrative Order 216–6A, which do not individually or cumulatively have the potential for significant impacts on the quality of the human environment and for which we have not identified any extraordinary circumstances that would preclude this categorical exclusion. Accordingly, NMFS has preliminarily determined that the issuance of the proposed IHA qualifies to be categorically excluded from further NEPA review.

We will review all comments submitted in response to this notice prior to concluding our NEPA process or making a final decision on the IHA request.

Summary of Request

On June 13, 2017, NMFS received a request from Venoco LLC for an IHA to take marine mammals incidental to replacement of fender piles at Casitas Pier in Carpinteria, California. Venoco's request is for take of harbor seal, California sea lions, and bottlenose dolphins by Level B harassment only. Neither Venoco LLC nor NMFS expect mortality to result from this activity and, therefore, an IHA is appropriate.

Description of Proposed Activity

Overview

Venoco is proposing to replace 13 fender piles at Casitas Pier (herein after ''Pier'') in Carpinteria, California. Fender piles at the end of the Pier are used to enable safe transfer of personnel and equipment between the Pier and vessels. Certain fender piles on both the west and east side of the Pier have failed or are likely to fail due to corrosion and physical damage from many years of use and require replacement. Repairs are planned prior to the 2017–2018 winter storm season to enable safe transfer of personnel and equipment on both sides of the Pier.

Dates and Duration

Venoco proposes to replace these 13 fender piles during the fall of 2017 to minimize impact to the local harbor seal population which uses Carpinteria beach as a haulout. Work on the pier will take place over a period of 2 to 3 weeks during fall 2017. Any work that is not completed during this period will be deferred to late summer or fall 2018. Two and a half days of pile driving are needed to complete the work but these days may not be consecutive. The proposed authorization effective dates would be October 1, 2017 through September 30, 2017 to allow pile driving to occur when all of the necessary permits and permissions are acquired.

Specific Geographic Region

The Pier is located on the Pacific Ocean along the south coast of Santa Barbara County in Southern California, near the southeastern corner of the City of Carpinteria. This area is used routinely for oil and gas operations, as well as for recreation. The Carpinteria Bluffs, located immediately upland of the Pier, provide a heavily used recreational trail system connecting downtown Carpinteria and the Carpinteria Beach State Park to the west with the Carpinteria Bluffs Nature Preserve to the east. The beach at the base of the Pier is accessible from points to the west, and is open to the public during summer and fall months. During the City of Carpinteria's established beach closure period for the seal pupping season (December 1 to May 31), the City restricts public access along the beach in an area extending approximately 750 feet (230 meters) east and west of the base of the Pier.

Detailed Description of Specific Activity

The Pier is owned by the City of Carpinteria and leased to Venoco, who operates and maintains the Pier. The Pier is located in offshore tidelands, owned and governed by the City of Carpinteria. The Pier was built in the mid- to late-1960s and extends approximately 720 feet (220 meters) from shore. The onshore uplands, adjacent to the Pier, are owned by Venoco. Fender piles at the end of the Pier are used to enable safe transfer of personnel and equipment between the Pier and vessels. Certain fender piles on both the west and east side of the Pier have failed or are likely to fail due to corrosion and physical damage from

many years of use and require replacement. Up to 13 fender piles located on the end of the Pier will be replaced (six on west side, and seven on the east side). The replacement piles will consist of an upper section approximately 48 to 50 feet (15 meters) to long consisting of 16-inch diameter x 0.50-inch wall thickness steel pipe pile with a 12-foot (4-meter) long driven lower section consisting of 14 inch x 73 pound H-pile spliced to the bottom of the upper pipe pile section. Epoxy coating will be used on the new fender piles. Installation will be accomplished utilizing impact and vibratory pile driving techniques supported from the Pier. The replacement piles will be installed offset slightly (about 2 feet) from the original fender pile positions. This spliced pile design has been in service for more than 60 years at the Pier.

The flow of work for the pile replacement is outlined below. The contractor will mobilize diving equipment, welding equipment, replacement pile, and associated rigging to the site. Divers, along with on-site facility crane and personnel, will remove debris and damaged fender pile from the work area, as required. The damaged portions of existing fender piles will be cut above the mudline and removed, and the remainder of the piles below the mudline will remain in place unless they present a hazard to the pier. A project-specific pile driving crew, crane and pile driving hammer will be positioned on, and operated from, the Pier to place and drive the replacement piles. Each new pile will be guided by a diver and positioned adjacent to an existing stub. Once positioned, the weight of the pile and vibratory pile hammer will be applied to the seabed and the pile will penetrate into the seabed slightly. At this point, the diver will confirm that the replacement pile remains adjacent to the old stub and exit the water or reposition the new pile and repeat. Once the replacement pile has slightly penetrated the seabed adjacent to the old pile stub and the diver has exited the water, the pile will be driven to an approximate elevation of 12 feet (4 meters) below the mudline or to refusal. Once the replacement pile is driven, welders will connect the replacement pile top to the main horizontal fender beam. Project-related debris will be removed from the seafloor and Pier. Debris will be properly disposed of, and project personnel and equipment will be demobilized from site.

Each pile will require approximately 25 minutes of vibratory driving, and up to six piles could be installed by this method in a single day (*i.e.,* up to 2.5 hours of vibratory pile driving per day). During this time the sound levels above and in water will be in excess of normal pier operations. Sound levels from various other fender pile construction activities will not be discernible from daily pier operations and are below NMFS' thresholds. In the unlikely event that an impact hammer is used, installation of a single pile will require an estimated 400 hammer strikes over 15 minutes, and up to six piles could be installed by this method in a single day (*i.e.,* up to 1.5 hours of pile driving per day). This information is summarized in Table 1.

TABLE 1—PILE DRIVING SUMMARY INFORMATION

Pile driving method	Estimated duration of driving per pile (minutes)	Estimated strikes per pile	Maximum number of piles per day	Total duration per day (minutes)
Vibratory Hammer	25	N.A.	6	150
Impact Hammer	15	400	6	90

Proposed mitigation, monitoring, and reporting measures are described in detail later in this document (please see ''Proposed Mitigation'' and ''Proposed Monitoring and Reporting'').

Description of Marine Mammals in the Area of Specified Activities

There are three marine mammal species that may likely transit through the waters nearby the project area, and are expected to potentially be taken by the specified activity. These include harbor seal (*Phoca vitulina*), California sea lion (*Zalophus californianus*), and bottlenose dolphin (*Tursiops truncatus*). Multiple additional marine mammal species may occasionally enter coastal California waters but they would not be expected to occur in shallow nearshore waters of the action area.

Sections 3 and 4 of the application summarize available information regarding status and trends, distribution and habitat preferences, and behavior and life history, of the potentially affected species. Additional information regarding population trends and threats may be found in NMFS's Stock Assessment Reports (SAR; *www.nmfs.noaa.gov/pr/sars/*) and more general information about these species (*e.g.,* physical and behavioral descriptions) may be found on NMFS's Web site (*www.nmfs.noaa.gov/pr/species/mammals/*).

Table 2 lists all species with expected potential for occurrence in coastal southern California and summarizes information related to the population or stock, including regulatory status under the MMPA and ESA and potential biological removal (PBR), where known. For taxonomy, we follow Committee on Taxonomy (2016). PBR is defined by the MMPA as the maximum number of animals, not including natural mortalities, that may be removed from a marine mammal stock while allowing that stock to reach or maintain its optimum sustainable population (as described in NMFS's SARs). While no mortality is anticipated or authorized here, PBR and annual serious injury and mortality from anthropogenic sources are included here as gross indicators of the status of the species and other threats.

Marine mammal abundance estimates presented in this document represent the total number of individuals that make up a given stock or the total number estimated within a particular study or survey area. NMFS's stock abundance estimates for most species represent the total estimate of individuals within the geographic area, if known, that comprises that stock. For some species, this geographic area may extend beyond U.S. waters. All managed stocks in this region are assessed in NMFS's U.S. Pacific SARs (NMFS 2016). All values presented in Table 2 are the most recent available at the time of publication and are available in the 2016 SARs (NMFS, 2016).

TABLE 2—MARINE MAMMAL POTENTIALLY PRESENT IN THE VICINITY OF CARPINTERIA

Common name	Scientific name	Stock	ESA/ MMPA status; Strategic (Y/N) [1]	Stock abundance (CV, N_{min}, most recent abundance survey) [2]	PBR	Annual M/SI [3]
Order Cetartiodactyla—Cetacea—Superfamily Mysticeti (baleen whales)						
Family Eschrichtiidae:						
Gray whale	Eschrichtius robustus	Eastern North Pacific	-;N	.05, 20,125, 2011	624	132
Family Balaenopteridae (rorquals):						
Bryde's whale	Balaenoptera edeni	Eastern Pacific	-;N	Unk, unk, unk, N/A	unk	unk
Humpback whale	Megaptera novaeangliae	California-Oregon-Washington.	-;N	.03, 1,876, 2014	11	6.5
Blue whale	Balaenoptera musculus	Eastern North Pacific	E;Y	.07, 1,551, 2011	2.3	0.9
Fin whale	Balaenoptera physalus	California-Oregon-Washington.	E;Y	.12, 8,127, 2014	81	2
Sei whale	Balaenoptera borealis	California-Oregon-Washington.	E;Y	0.4, 374, 2104	0.75	0
Superfamily Odontoceti (toothed whales, dolphins, and porpoises)						
Family Physeteridae:						
Sperm whale	Physeter macrocephalus	California-Oregon-Washington.	E;Y	0.58, 1,332, 2008	2.7	1.7
Family Kogiidae:						
Pygmy sperm whale	Kogia breviceps	California-Oregon-Washington.	-;N	1.12, 1,924, 2014	19	0
Dwarf sperm whale	Kogia sima	California-Oregon-Washington.				
Family Ziphiidae (beaked whales):						
Baird's beaked whale	Berardius bairdii	Eastern North Pacific	-;N	0.81, 466, 2008	4.7	0
Cuvier's beaked whale	Ziphius cavirostris	California-Oregon-Washington.	-;N	Unk, unk, 2014	Unk	0
Mesoplodont beaked whales (six species).	Mesoplodon spp.	California-Oregon-Washington.	-;Y	0.65, 389, 2008	0.5	3.9
Family Delphinidae:						
Short-beaked common dolphin.	Delphinus delphis d.	California-Oregon-Washington.	-;N	0.17, 839,325, 2014	5,393	40
Long-beaked common dolphin.	Delphinus capensis c.	California	-;N	0.49, 88,432, 2014	657	35.4
Pacific white-sided dolphin.	Lagenorhynchus obliquidens.	California-Oregon-Washington northern and southern stocks.	-;N	0.28, 21,195, 2014	191	7.5
Striped dolphin	Stenella coeruleoalba	California-Oregon-Washington.	-;N	0.2, 24,782, 2014	238	0.8
Risso's dolphin	Grampus griseus	California-Oregon-Washington.	-;N	0.32, 4,817, 2014	46	3.7
Common bottlenose dolphin.	Tursiops truncatus t.	California-Oregon-Washington offshore stock.	-;N	0.54, 1,255, 2014	11	1.6
Common bottlenose dolphin.	Tursiops truncatus t.	California coastal stock	-;N	0.06, 346, 2011	2.7	2
Northern right whale dolphin.	Lissodelphis borealis	California-Oregon-Washington.	-;N	0.44, 18,608, 2014	179	3.8
Killer whale	Orcinus orca	Eastern North Pacific offshore.	-;N	0.49, 162, 2014	1.6	0
Killer whale	Orcinus orca	West Coast Transient	-;N	Unk, 243, 2009	2.4	0
Short-finned pilot whale.	Globicephala macrorhynchus.	California-Oregon-Washington.	-;N	0.79, 466, 2014	4.5	1.2
Family Phocoenidae (porpoises):						
Dall's porpoise	Phocoenoides dalli	California-Oregon-Washington.	-;N	0.45, 17,954, 2014	172	0.3
Order Carnivora—Superfamily Pinnipedia						
Family Otariidae (eared seals and sea lions):						
Guadalupe fur seal	Arctocephalus townsendi	Guadalupe Island	E;Y	Unk, 15,830, 2010	542	3.2
California sea lion	Zalophus californianus	U.S. stock	-;N	Unk, 153,337, 2011	9,200	389
Steller sea lion	Eumetopias jubatus	Eastern	-;N	Unk, 41,638, 2015	2,498	108
Northern fur seal	Callorhinus ursinus	California stock	-;N	Unk, 7,524, 2013	451	1.8
Northern elephant seal	Mirounga angustirostris	California breeding stock	-;N	Unk, 81,368, 2010	4,882	8.8

TABLE 2—MARINE MAMMAL POTENTIALLY PRESENT IN THE VICINITY OF CARPINTERIA—Continued

Common name	Scientific name	Stock	ESA/ MMPA status; Strategic (Y/N) [1]	Stock abundance (CV, N_{min}, most recent abundance survey) [2]	PBR	Annual M/SI [3]
Family Phocidae (earless seals):						
Pacific harbor seal	Phoca vitulina richardii	California stock	-;N	Unk, 27,348, 2012	1,641	43

1—Endangered Species Act (ESA) status: Endangered (E), Threatened (T)/MMPA status: Depleted (D). A dash (-) indicates that the species is not listed under the ESA or designated as depleted under the MMPA. Under the MMPA, a strategic stock is one for which the level of direct human-caused mortality exceeds PBR or which is determined to be declining and likely to be listed under the ESA within the foreseeable future. Any species or stock listed under the ESA is automatically designated under the MMPA as depleted and as a strategic stock.

2—NMFS marine mammal stock assessment reports online at: *www.nmfs.noaa.gov/pr/sars/.* CV is coefficient of variation; Nmin is the minimum estimate of stock abundance. In some cases, CV is not applicable [explain if this is the case].

3—These values, found in NMFS's SARs, represent annual levels of human-caused mortality plus serious injury from all sources combined (*e.g.,* commercial fisheries, ship strike). Annual M/SI often cannot be determined precisely and is in some cases presented as a minimum value or range. A CV associated with estimated mortality due to commercial fisheries is presented in some cases.

Note—*Italicized species are not expected to be taken or proposed for authorization.*

All species that could potentially occur in the proposed construction area are included in Table 2. However, the temporal and spatial occurrence of all but three of the species listed in Table 2 with respect to the timing and location of the specified activity is such that take is not expected to occur, and they are not discussed further beyond the explanation provided here.

Most of the species included in Table 2 above are unlikely to occur during the proposed work because they are not resident to this part of California during the late summer and early fall months. For those species that may occur in coastal southern California during that time, they are unlikely to occur at such close proximity to the shoreline and the proposed work is conducted from a pier connected to a beach with maximum water depths of 4–8 meters. The long-beaked common dolphin may occasionally venture within one nautical mile of the project site but is unlikely. The short-beaked common dolphin is much less likely to appear in the vicinity than the long-beaked common dolphin. The gray whale occurs within one nautical mile of the project site, but it does not migrate through the region until late December through May, with most gray whales sighted near the project area in the spring. The other species generally occur farther offshore and have not been reported in the vicinity of this area of the Southern California Bight (SCB), so they will not be discussed further in this document.

Of the MMPA-listed species of marine mammals summarized in Table 2, only the Pacific harbor seal, the California sea lion, and the coastal stock of bottlenose dolphin are anticipated to be found in the immediate vicinity of the project site and subsequently may be taken by pile driving. Below are descriptions of those species and the relevant stock, as well as information regarding population trends and threats, and describe any information regarding local occurrence.

Harbor seal

Pacific harbor seals inhabit the entire coast of California, including the offshore islands, forming small, relatively stable populations. The California stock of harbor seals is estimated at 30,968 (Carretta *et al.,* 2015). This species is non-migratory, but local movements of short to moderate distances sometimes occur (California Department of Fish and Game [CDFG] 1990). They breed along the California coast between March and June. The preferred habitat of the Pacific harbor seal includes offshore rocks, sandy beaches, gravelly or rocky beaches, and estuarine mud flats (NMFS 1997). Molting occurs from late May through July or August and lasts approximately 6 weeks. Between fall and winter, harbor seals spend less time on land, but they usually remain relatively close to shore while at sea.

The project area is in the vicinity of one of the most well-known seal rookeries on the mainland shore of the SCB. This rookery, east of the base of the Pier, is inhabited year-round but the beach is closed to all activity, including construction during the winter pupping season. Since 1991 the Carpinteria seal rookery has been monitored from January 1 through May 30 by the Carpinteria Seal Watch, an ad hoc citizens' group. (The group does not start watches until January 1 because of the holidays.) In the 15-year period prior to 2008, the highest record of seals hauling out during pupping season (December to May) was 390 animals in 2006. A calculation, known as Hanan's and Beeson's formula (1994), was applied to the observed number of 390 individuals, to account for individuals in the water during the count. Such a calculation brings the population to 507 individuals in 2006. However, Hanan's and Beeson's formula was designed to estimate total population from aerial counts conducted once a year, one time over each area, as opposed to extensive daily ground counts over a period of six months each year.

Population counts have occasionally occurred during or after molting season (April to June), when the number of seals utilizing the rookery are believed to be even higher than during pupping season. However, the rookery beach is open to the public during this time, so accurate counts are more difficult to obtain, since human use of the beach disturbs the animals. As such, the most accurate counts have occurred early in the morning before animals have been disturbed. The highest number of seals ever recorded by a Carpinteria Seal Watch member (not during their usual watch season) totaled 364 in September 1993. Applying Hanan's and Beeson's formula to this count revealed a total population during molting season of 473.

In 2006, field studies of marine mammals were conducted for the environmental evaluation of the Paredon project, which would have involved slant drilling under the Carpinteria seal rookery to offshore oil reserves. These studies resulted in a count of 482 animals in October and 462 animals in November (Marine Mammal Consulting Group 2007a and b). Boveng (1988) calculated that 50 to 70 percent of all harbor seals were hauled out during molting. However, his calculations were based on once-a-year

annual aerial surveys, with only one pass over each site. These were conducted during daytime hours. The MMCG studies were conducted on multiple occasions at night from October through December, using black and white film, digital photos, and infrared photos. These were pasted into photo mosaics to accurately count every animal by dividing the area up into segments. The lowest total number of animals was selected from the photos taken during the highest count (482), which was tallied in October. In November, another count revealed 452 animals, suggesting that the high count was not an anomaly. The lowest nighttime count was 310. Using Boveng's formula, this suggests that the population ranged from 443 to 964 animals. Obviously the highest actual count exceeded Boveng's lowest estimate. It is clear that the minimum population was 482, but that assumes all animals were present on the beach. The more likely population estimate is probably from 500 to 700 animals. This is believed to be an accurate estimate of the total population of harbor seals at Carpinteria in 2006. However, this estimate was derived from a nighttime count and does not reflect a daytime estimate of the Carpinteria population, especially when the beaches are open to the public and very few seals are present (MMCG 2007b).

Years of observations have revealed that harbor seals sometimes react to various anthropogenic stimuli. These include low-flying aircraft of all descriptions (including even a blimp on one occasion) hang and para gliders, people and dogs on the beach and bluff, bicyclists, boats, jet skis, surfers, divers, swimmers, fishers, passing trains, equipment activity and people on the Pier, crews coming and going from boats, and various oil company repair activities. All of these activities have been short-lived and have not deterred the seals from the haul-out area except during daytime from June 1 through November 30, when the beach is open to the public. At such times, the beach is often deserted by the seals, although some haul out on offshore rocks beyond the action area to the west during low tides (MMCG 2007a and b). During very high tides, when the beach is inaccessible to humans because of prominent points jutting to the sea, a few seals may remain on the beach.

Natural disturbances also startle the seals. These include birds suddenly taking flight or making low passes, coyotes roaming the beach, ground squirrels and rabbits burrowing into the coastal bluffs, large waves washing ashore, high tides that preclude most seals from finding a spot to haul out, excessive heat during periods of little wind, and white sharks in the water (MMCG 1995; 1998a, b, d, and e; 2001a and b; 2006; 2007a and b; 2011c; 2013b; and 2014b; SBMMC 1976–2015; SBMMC 1976–2015; Seagars 1988).

Based on review of the available observational data, similar past experience in the project vicinity, and project timing (fall season, during daytime hours), an estimated range of zero to 50 harbor seals is anticipated to be present on the beach and in the ocean within the project vicinity during work periods.

California sea lion

California sea lions are the most abundant pinniped in the SCB. Although no rookeries occur on the mainland shore of the SCB, this species regularly hauls out on buoys, oil platforms, docks, breakwaters and other structures along the coast in the vicinity of the project. Individuals are regularly observed hauled out on mooring buoys used by oil supply vessels southeast of the Pier, although these buoys are small and only allow less than a dozen animals to haul out. These buoys are beyond the action area. They also haul out on oil platforms and attendant buoys off Carpinteria, but these are miles away for the action area. Occasionally, individual stranded specimens haul out at the Carpinteria seal rookery (MMCG 1995; 1998a, b, d, and e; 2001a and b; 2006; 2011c, 2013b, and 2014b; SBMMC 1976–2015). Such occurrences are rare, with less than half a dozen animals stranded in the action area a year and usually even less (SBMMC 1976–2015). The action area is not a sea lion haul-out site.

During the breeding season, the majority of California sea lions are found in Southern California and Mexico. Rookery sites in Southern California are limited to San Miguel Island and to the more southerly Channel Islands of San Nicolas, Santa Barbara, and San Clemente (NMFS 1997). Rocky ledges and sandy beaches on offshore islands are the preferred rookery habitat. Pupping season begins in mid-May, peaking in the third week of June and tapering off in July. The California sea lion molts gradually over several months during late summer and fall. California sea lions exhibit annual migratory movements; in the spring, males migrate southward to breeding rookeries in the Channel Islands and Mexico, then migrate northward in late summer following breeding season. Females migrate as far north as San Francisco Bay in winter, but during El Niño events, have moved as far north as central Oregon.

The minimum population size of the U.S. stock of California sea lions in 2011 was estimated at 296,750 (Carretta *et al.,* 2015). This estimate is likely to be revised downward because of a long-lasting Unusual Mortality Event (UME). The causes are still being studied, but lack of prey, domoic acid outbreaks, and shark predation are being examined. Based on review of the available opportunistic sightings data from the Seal Watch, other construction projects in the project vicinity, and project timing (fall season), an estimated range of zero to 15 sea lions is anticipated to be present within the project vicinity during work periods.

Bottlenose Dolphin

Coastal bottlenose dolphins (*Tursiops truncatus*) range from San Francisco, California to Baja California. This stock prefers coastal waters between the surf zone and 0.6 nautical miles offshore. Almost all (99 percent) are found within 0.6 nautical miles of shore (Hansen and DeFran 1993). The stock size is estimated at only 323 animals throughout its entire range (Carretta *et al.,* 2015). The project site represents a very small portion of its overall range. Past projects in the vicinity of the pier have revealed anywhere from 2 to 32 animals present at any one time, with an average pod size of 8 animals, although many days or even weeks go by with no dolphins seen (MMCG 1995; 1998a, b, d, and e; 2001a and b; 2006; 2011c, 2013b, and 2014b). Carpinteria Seal Watch data are incomplete, in that bottlenose dolphins are sometimes noted and sometimes not. Long-beaked common dolphins are occasionally noted as bottlenose dolphins during opportunistic sighting reports.

Based on review of opportunistic sightings data in the area from Seal Watch and other construction projects in the project vicinity, and project timing (fall season, during daytime hours), an estimated range of 2 to 32 coastal bottlenose dolphins is anticipated to be present within the project vicinity during work periods, with an average pod size of 8 animals, although many days or even weeks go by with no dolphins seen.

Potential Effects of Specified Activities on Marine Mammals and Their Habitat

This section includes a summary and discussion of the ways that components of the specified activity may impact marine mammals and their habitat. The ''Estimated Take by Incidental Harassment'' section later in this document includes a quantitative

analysis of the number of individuals that are expected to be taken by this activity. The ''Negligible Impact Analysis and Determination'' section considers the content of this section, the ''Estimated Take by Incidental Harassment'' section, and the ''Proposed Mitigation'' section, to draw conclusions regarding the likely impacts of these activities on the reproductive success or survivorship of individuals and how those impacts on individuals are likely to impact marine mammal species or stocks.

Description of Sound Sources

Sound travels in waves, the basic components of which are frequency, wavelength, velocity, and amplitude. Frequency is the number of pressure waves that pass by a reference point per unit of time and is measured in hertz (Hz) or cycles per second. Wavelength is the distance between two peaks of a sound wave; lower frequency sounds have longer wavelengths than higher frequency sounds. Amplitude is the height of the sound pressure wave or the 'loudness' of a sound and is typically measured using the decibel (dB) scale. A dB is the ratio between a measured pressure (with sound) and a reference pressure (sound at a constant pressure, established by scientific standards). It is a logarithmic unit that accounts for large variations in amplitude; therefore, relatively small changes in dB ratings correspond to large changes in sound pressure. When referring to sound pressure levels (SPLs; the sound force per unit area), sound is referenced in the context of underwater sound pressure to 1 microPascal (μPa). One pascal is the pressure resulting from a force of one newton exerted over an area of one square meter. The source level (SL) represents the sound level at a distance of 1 m from the source (referenced to 1 μPa). The received level is the sound level at the listener's position. Note that all underwater sound levels in this document are referenced to a pressure of 1 μPa and all airborne sound levels in this document are referenced to a pressure of 20 μPa.

Root mean square (rms) is the quadratic mean sound pressure over the duration of an impulse. Rms is calculated by squaring all of the sound amplitudes, averaging the squares, and then taking the square root of the average (Urick 1983). Rms accounts for both positive and negative values; squaring the pressures makes all values positive so that they may be accounted for in the summation of pressure levels (Hastings and Popper 2005). This measurement is often used in the context of discussing behavioral effects, in part because behavioral effects, which often result from auditory cues, may be better expressed through averaged units than by peak pressures.

When underwater objects vibrate or activity occurs, sound-pressure waves are created. These waves alternately compress and decompress the water as the sound wave travels. Underwater sound waves radiate in all directions away from the source (similar to ripples on the surface of a pond), except in cases where the source is directional. The compressions and decompressions associated with sound waves are detected as changes in pressure by aquatic life and man-made sound receptors such as hydrophones.

Even in the absence of sound from the specified activity, the underwater environment is typically loud due to ambient sound. Ambient sound is defined as environmental background sound levels lacking a single source or point (Richardson *et al.,* 1995), and the sound level of a region is defined by the total acoustical energy being generated by known and unknown sources. These sources may include physical (*e.g.,* waves, earthquakes, ice, atmospheric sound), biological (*e.g.,* sounds produced by marine mammals, fish, and invertebrates), and anthropogenic sound (*e.g.,* vessels, dredging, aircraft, construction). A number of sources contribute to ambient sound, including the following (Richardson *et al.,* 1995):

- *Wind and waves:* The complex interactions between wind and water surface, including processes such as breaking waves and wave-induced bubble oscillations and cavitation, are a main source of naturally occurring ambient noise for frequencies between 200 Hz and 50 kHz (Mitson 1995). In general, ambient sound levels tend to increase with increasing wind speed and wave height. Surf noise becomes important near shore, with measurements collected at a distance of 8.5 km from shore showing an increase of 10 dB in the 100 to 700 Hz band during heavy surf conditions.
- *Precipitation:* Sound from rain and hail impacting the water surface can become an important component of total noise at frequencies above 500 Hz, and possibly down to 100 Hz during quiet times.
- *Biological:* Marine mammals can contribute significantly to ambient noise levels, as can some fish and shrimp. The frequency band for biological contributions is from approximately 12 Hz to over 100 kHz.
- *Anthropogenic:* Sources of ambient noise related to human activity include transportation (surface vessels and aircraft), dredging and construction, oil and gas drilling and production, seismic surveys, sonar, explosions, and ocean acoustic studies. Shipping noise typically dominates the total ambient noise for frequencies between 20 and 300 Hz. In general, the frequencies of anthropogenic sounds are below 1 kHz and, if higher frequency sound levels are created, they attenuate rapidly (Richardson *et al.,* 1995). Sound from identifiable anthropogenic sources other than the activity of interest (*e.g.,* a passing vessel) is sometimes termed background sound, as opposed to ambient sound.

The sum of the various natural and anthropogenic sound sources at any given location and time—which comprise ''ambient'' or ''background'' sound—depends not only on the source levels (as determined by current weather conditions and levels of biological and shipping activity) but also on the ability of sound to propagate through the environment. In turn, sound propagation is dependent on the spatially and temporally varying properties of the water column and sea floor, and is frequency-dependent. As a result of the dependence on a large number of varying factors, ambient sound levels can be expected to vary widely over both coarse and fine spatial and temporal scales. Sound levels at a given frequency and location can vary by 10–20 dB from day to day (Richardson *et al.,* 1995). The result is that, depending on the source type and its intensity, sound from the specified activity may be a negligible addition to the local environment or could form a distinctive signal that may affect marine mammals.

In-water construction activities associated with the project would include impact pile driving and vibratory pile driving. The sounds produced by these activities fall into one of two general sound types: Pulsed and non-pulsed (defined in the following). The distinction between these two sound types is important because they have differing potential to cause physical effects, particularly with regard to hearing (*e.g.,* Ward, 1997 in Southall *et al.,* 2007). Please see Southall *et a.l* (2007) for an in-depth discussion of these concepts.

Pulsed sound sources (*e.g.,* explosions, gunshots, sonic booms, impact pile driving) produce signals that are brief (typically considered to be less than one second), broadband, atonal transients (ANSI 1986; Harris 1998; NIOSH 1998; ISO 2003; ANSI 2005) and occur either as isolated events or repeated in some succession. Pulsed sounds are all characterized by a relatively rapid rise from ambient

pressure to a maximal pressure value followed by a rapid decay period that may include a period of diminishing, oscillating maximal and minimal pressures, and generally have an increased capacity to induce physical injury as compared with sounds that lack these features.

Non-pulsed sounds can be tonal, narrowband, or broadband, brief or prolonged, and may be either continuous or non-continuous (ANSI 1995; NIOSH 1998). Some of these non-pulsed sounds can be transient signals of short duration but without the essential properties of pulses (*e.g.,* rapid rise time). Examples of non-pulsed sounds include those produced by vessels, aircraft, machinery operations such as drilling or dredging, vibratory pile driving, and active sonar systems (such as those used by the U.S. Navy). The duration of such sounds, as received at a distance, can be greatly extended in a highly reverberant environment.

Impact hammers operate by repeatedly dropping a heavy piston onto a pile to drive the pile into the substrate. Sound generated by impact hammers is characterized by rapid rise times and high peak levels, a potentially injurious combination (Hastings and Popper 2005). Vibratory hammers install piles by vibrating them and allowing the weight of the hammer to push them into the sediment. Vibratory hammers produce significantly less sound than impact hammers. Peak SPLs may be 180 dB or greater, but are generally 10 to 20 dB lower than SPLs generated during impact pile driving of the same-sized pile (Oestman *et al.,* 2009). Rise time is slower, reducing the probability and severity of injury, and sound energy is distributed over a greater amount of time (Nedwell and Edwards 2002; Carlson *et al.,* 2005).

Marine Mammal Hearing

Hearing is the most important sensory modality for marine mammals underwater, and exposure to anthropogenic sound can have deleterious effects. To appropriately assess the potential effects of exposure to sound, it is necessary to understand the frequency ranges marine mammals are able to hear. Current data indicate that not all marine mammal species have equal hearing capabilities (*e.g.,* Richardson *et al.,* 1995; Wartzok and Ketten, 1999; Au and Hastings, 2008). To reflect this, Southall *et al.* (2007) recommended that marine mammals be divided into functional hearing groups based on directly measured or estimated hearing ranges on the basis of available behavioral response data, audiograms derived using auditory evoked potential techniques, anatomical modeling, and other data. Note that no direct measurements of hearing ability have been successfully completed for mysticetes (*i.e.,* low-frequency cetaceans). Subsequently, NMFS (2016) described generalized hearing ranges for these marine mammal hearing groups. Generalized hearing ranges were chosen based on the approximately 65 dB threshold from the normalized composite audiograms, with the exception for lower limits for low-frequency cetaceans where the lower bound was deemed to be biologically implausible and the lower bound from Southall *et al.* (2007) retained. The functional groups and the associated frequencies are indicated below (note that these frequency ranges correspond to the range for the composite group, with the entire range not necessarily reflecting the capabilities of every species within that group):

TABLE 3—MARINE MAMMAL HEARING GROUPS AND THEIR GENERALIZED HEARING RANGE

Hearing group	Generalized hearing range *
Low-frequency (LF) cetaceans (baleen whales)	7 Hz to 35 kHz.
Mid-frequency (MF) cetaceans (dolphins, toothed whales, beaked whales, bottlenose whales)	150 Hz to 160 kHz.
High-frequency (HF) cetaceans (true porpoises, *Kogia,* river dolphins, cephalorhynchid, *Lagenorhynchus cruciger* and *L. australis*).	275 Hz to 160 kHz.
Phocid pinnipeds (PW) (underwater) (true seals)	50 Hz to 86 kHz.
Otariid pinnipeds (OW) (underwater) (sea lions and fur seals)	60 Hz to 39 kHz.

* Represents the generalized hearing range for the entire group as a composite (*i.e.,* all species within the group), where individual species' hearing ranges are typically not as broad. Generalized hearing range chosen based on ~65 dB threshold from normalized composite audiogram, with the exception for lower limits for LF cetaceans (Southall *et al.,* 2007) and PW pinniped (approximation).

The pinniped functional hearing group was modified from Southall *et al.* (2007) on the basis of data indicating that phocid species have consistently demonstrated an extended frequency range of hearing compared to otariids, especially in the higher frequency range (Hemilä *et al.,* 2006; Kastelein *et al.,* 2009; Reichmuth and Holt, 2013). For more detail concerning these groups and associated frequency ranges, please see NMFS (2016) for a review of available information. As mentioned previously in this document, three marine mammal species (one cetacean and two pinnipeds) may occur in the project area. Of these three, the bottlenose dolphin is classified as a mid-frequency cetacean (Southall *et al.,* 2007). Additionally, harbor seals are classified as members of the phocid pinnipeds in water functional hearing group while California sea lions are grouped under the Otariid pinnipeds in water functional hearing group. A species' functional hearing group is a consideration when we analyze the effects of exposure to sound on marine mammals.

Acoustic Impacts

Please refer to the information given previously (Description of Sound Sources) regarding sound, characteristics of sound types, and metrics used in this document. Anthropogenic sounds cover a broad range of frequencies and sound levels and can have a range of highly variable impacts on marine life, from none or minor to potentially severe responses, depending on received levels, duration of exposure, behavioral context, and various other factors. The potential effects of underwater sound from active acoustic sources can potentially result in one or more of the following; temporary or permanent hearing impairment, non-auditory physical or physiological effects, behavioral disturbance, stress, and masking (Richardson *et al.,* 1995; Gordon *et al.,* 2004; Nowacek *et al.,* 2007; Southall *et al.,* 2007; Gotz *et al.,* 2009). The degree of effect is intrinsically related to the signal characteristics, received level, distance from the source, and duration of the sound exposure. In general, sudden, high level sounds can cause hearing loss, as can longer exposures to lower level sounds. Temporary or permanent loss of hearing will occur almost exclusively for noise within an

animal's hearing range. We first describe specific manifestations of acoustic effects before providing discussion specific to the Venoco's construction activities.

Richardson *et al.* (1995) described zones of increasing intensity of effect that might be expected to occur, in relation to distance from a source and assuming that the signal is within an animal's hearing range. First is the area within which the acoustic signal would be audible (potentially perceived) to the animal, but not strong enough to elicit any overt behavioral or physiological response. The next zone corresponds with the area where the signal is audible to the animal and of sufficient intensity to elicit behavioral or physiological responsiveness. Third is a zone within which, for signals of high intensity, the received level is sufficient to potentially cause discomfort or tissue damage to auditory or other systems. Overlaying these zones to a certain extent is the area within which masking (*i.e.,* when a sound interferes with or masks the ability of an animal to detect a signal of interest that is above the absolute hearing threshold) may occur; the masking zone may be highly variable in size.

We describe the more severe effects (*i.e.,* permanent hearing impairment, certain non-auditory physical or physiological effects) only briefly as we do not expect that there is a reasonable likelihood that Venoco's activities may result in such effects (see below for further discussion). Marine mammals exposed to high-intensity sound, or to lower-intensity sound for prolonged periods, can experience hearing threshold shift (TS), a change, usually an increase, in the threshold of audibility at a specified frequency or portion of an individual's hearing range above a previously established reference level (NMFS 2016). TS can be permanent (PTS), an irreversible increase in the threshold of audibility at a specified frequency or portion of an individual's hearing range above a previously established reference level, or temporary (TTS), a temporary, reversible increase in the threshold of audibility at a specified frequency or portion of an individual's hearing range above a previously established reference level (NMFS 2016). Repeated sound exposure that leads to TTS could cause PTS. In severe cases of PTS, there can be total or partial deafness, while in most cases the animal has an impaired ability to hear sounds in specific frequency ranges (Kryter 1985).

When PTS occurs, there is physical damage to the sound receptors in the ear (*i.e.,* tissue damage), whereas TTS represents primarily tissue fatigue and is reversible (Southall *et al.,* 2007). In addition, other investigators have suggested that TTS is within the normal bounds of physiological variability and tolerance and does not represent physical injury (*e.g.,* Ward 1997). Therefore, NMFS does not consider TTS to constitute auditory injury.

Relationships between TTS and PTS thresholds have not been studied in marine mammals—PTS data exists only for a single harbor seal (Kastak *et al.,* 2008)—but are assumed to be similar to those in humans and other terrestrial mammals. PTS typically occurs at exposure levels at least several dB above a 40-dB threshold shift approximates PTS onset; *e.g.,* Kryter *et al.,* 1966; Miller, 1974) that inducing mild TTS (a 6-dB threshold shift approximates TTS onset; *e.g.,* Southall *et al.,* 2007). Based on data from terrestrial mammals, a precautionary assumption is that the PTS thresholds for impulse sounds (such as impact pile driving pulses as received close to the source) are at least 6 dB higher than the TTS threshold on a peak-pressure basis and PTS cumulative sound exposure level thresholds are 15 to 20 dB higher than TTS cumulative sound exposure level thresholds (Southall *et al.,* 2007). Given the higher level of sound or longer exposure duration necessary to cause PTS as compared with TTS, it is considerably less likely that PTS could occur.

Non-auditory physiological effects or injuries that theoretically might occur in marine mammals exposed to high level underwater sound or as a secondary effect of extreme behavioral reactions (*e.g.,* change in dive profile as a result of an avoidance reaction) caused by exposure to sound include neurological effects, bubble formation, resonance effects, and other types of organ or tissue damage (Cox *et al.,* 2006; Southall *et al.,* 2007; Zimmer and Tyack 2007). Venoco's activities do not involve the use of devices such as explosives or mid-frequency active sonar that are associated with these types of effects; therefore, no non-auditory physical effects or injuries is anticipated

Temporary threshold shift—TTS is the mildest form of hearing impairment that can occur during exposure to sound (Kryter 1985). While experiencing TTS, the hearing threshold rises, and a sound must be at a higher level in order to be heard. In terrestrial and marine mammals, TTS can last from minutes or hours to days (in cases of strong TTS). In many cases, hearing sensitivity recovers rapidly after exposure to the sound ends. Few data on sound levels and durations necessary to elicit mild TTS have been obtained for marine mammals. Marine mammal hearing plays a critical role in communication with conspecifics, and interpretation of environmental cues for purposes such as predator avoidance and prey capture. Depending on the degree (elevation of threshold in dB), duration (*i.e.,* recovery time), and frequency range of TTS, and the context in which it is experienced, TTS can have effects on marine mammals ranging from discountable to serious. For example, a marine mammal may be able to readily compensate for a brief, relatively small amount of TTS in a non-critical frequency range that occurs during a time where ambient noise is lower and there are not as many competing sounds present. Alternatively, a larger amount and longer duration of TTS sustained during a time when communication is critical for successful mother/calf interactions could have more serious impacts.

Currently, TTS data only exist for four species of cetaceans (bottlenose dolphin, beluga whale (*Delphinapterus leucas*), harbor porpoise, and Yangtze finless porpoise (*Neophocoena asiaeorientalis*)) and three species of pinnipeds (northern elephant seal, harbor seal, and California sea lion) exposed to a limited number of sound sources (*i.e.,* mostly tones and octave-band noise) in laboratory settings (*e.g.,* Finneran *et al.,* 2002; Nachtigall *et al.,* 2004; Kastak *et al.,* 2005; Lucke *et al.,* 2009; Popov *et al.,* 2011). In general, harbor seals (Kastak *et al.,* 2005; Kastelein *et al.,* 2012a) and harbor porpoises (Lucke *et al.,* 2009; Kastelein *et al.,* 2012b) have a lower TTS onset than other measured pinniped or cetacean species. Additionally, the existing marine mammal TTS data come from a limited number of individuals within these species. There are no data available on noise-induced hearing loss for mysticetes. For summaries of data on TTS in marine mammals or for further discussion of TTS onset thresholds, please see Southall *et al.* (2007) and Finneran and Jenkins (2012).

Behavioral effects—Behavioral disturbance may include a variety of effects, including subtle changes in behavior (*e.g.,* minor or brief avoidance of an area or changes in vocalizations), more conspicuous changes in similar behavioral activities, and more sustained and/or potentially severe reactions, such as displacement from or abandonment of high-quality habitat. Behavioral responses to sound are highly variable and context-specific and any reactions depend on numerous intrinsic and extrinsic factors (*e.g.,* species, state of maturity, experience, current activity, reproductive state,

auditory sensitivity, time of day), as well as the interplay between factors (*e.g.,* Richardson *et al.,* 1995; Wartzok *et al.,* 2003; Southall *et al.,* 2007; Weilgart, 2007; Archer *et al.,* 2010). Behavioral reactions can vary not only among individuals but also within an individual, depending on previous experience with a sound source, context, and numerous other factors (Ellison *et al.,* 2012), and can vary depending on characteristics associated with the sound source (*e.g.,* whether it is moving or stationary, number of sources, distance from the source). Please see Appendices B–C of Southall *et al.* (2007) for a review of studies involving marine mammal behavioral responses to sound.

Habituation can occur when an animal's response to a stimulus wanes with repeated exposure, usually in the absence of unpleasant associated events (Wartzok *et al.,* 2003). Animals are most likely to habituate to sounds that are predictable and unvarying. It is important to note that habituation is appropriately considered as a ''progressive reduction in response to stimuli that are perceived as neither aversive nor beneficial,'' rather than as, more generally, moderation in response to human disturbance (Bejder *et al.,* 2009). The opposite process is sensitization, when an unpleasant experience leads to subsequent responses, often in the form of avoidance, at a lower level of exposure.

As noted above, behavioral state may affect the type of response. For example, animals that are resting may show greater behavioral change in response to disturbing sound levels than animals that are highly motivated to remain in an area for feeding (Richardson *et al.,* 1995; NRC, 2003; Wartzok *et al.,* 2003). Controlled experiments with captive marine mammals have showed pronounced behavioral reactions, including avoidance of loud sound sources (Ridgway *et al.,* 1997; Finneran *et al.,* 2003). Observed responses of wild marine mammals to loud pulsed sound sources (typically seismic airguns or acoustic harassment devices) have been varied but often consist of avoidance behavior or other behavioral changes suggesting discomfort (Morton and Symonds 2002; see also Richardson *et al.,* 1995; Nowacek *et al.,* 2007).

Available studies show wide variation in response to underwater sound; therefore, it is difficult to predict specifically how any given sound in a particular instance might affect marine mammals perceiving the signal. If a marine mammal does react briefly to an underwater sound by changing its behavior or moving a small distance, the impacts of the change are unlikely to be significant to the individual, let alone the stock or population. However, if a sound source displaces marine mammals from an important feeding or breeding area for a prolonged period, impacts on individuals and populations could be significant (*e.g.,* Lusseau and Bejder 2007; Weilgart 2007; NRC 2005). However, there are broad categories of potential response, which we describe in greater detail here, that include alteration of dive behavior, alteration of foraging behavior, effects to breathing, interference with or alteration of vocalization, avoidance, and flight.

Changes in dive behavior can vary widely, and may consist of increased or decreased dive times and surface intervals as well as changes in the rates of ascent and descent during a dive (*e.g.,* Frankel and Clark 2000; Costa *et al.,* 2003; Ng and Leung 2003; Nowacek *et al.,* 2004; Goldbogen *et al.,* 2013a,b). Variations in dive behavior may reflect interruptions in biologically significant activities (*e.g.,* foraging) or they may be of little biological significance. The impact of an alteration to dive behavior resulting from an acoustic exposure depends on what the animal is doing at the time of the exposure and the type and magnitude of the response.

Disruption of feeding behavior can be difficult to correlate with anthropogenic sound exposure, so it is usually inferred by observed displacement from known foraging areas, the appearance of secondary indicators (*e.g.,* bubble nets or sediment plumes), or changes in dive behavior. As for other types of behavioral response, the frequency, duration, and temporal pattern of signal presentation, as well as differences in species sensitivity, are likely contributing factors to differences in response in any given circumstance (*e.g.,* Croll *et al.,* 2001; Nowacek *et al.;* 2004; Madsen *et al.,* 2006; Yazvenko *et al.,* 2007). A determination of whether foraging disruptions incur fitness consequences would require information on or estimates of the energetic requirements of the affected individuals and the relationship between prey availability, foraging effort and success, and the life history stage of the animal.

Variations in respiration naturally vary with different behaviors and alterations to breathing rate as a function of acoustic exposure can be expected to co-occur with other behavioral reactions, such as a flight response or an alteration in diving. However, respiration rates in and of themselves may be representative of annoyance or an acute stress response. Various studies have shown that respiration rates may either be unaffected or could increase, depending on the species and signal characteristics, again highlighting the importance in understanding species differences in the tolerance of underwater noise when determining the potential for impacts resulting from anthropogenic sound exposure (*e.g.,* Kastelein *et al.,* 2001, 2005b, 2006; Gailey *et al.,* 2007).

Marine mammals vocalize for different purposes and across multiple modes, such as whistling, echolocation click production, calling, and singing. Changes in vocalization behavior in response to anthropogenic noise can occur for any of these modes and may result from a need to compete with an increase in background noise or may reflect increased vigilance or a startle response. For example, in the presence of potentially masking signals, humpback whales and killer whales have been observed to increase the length of their songs (Miller *et al.,* 2000; Fristrup *et al.,* 2003; Foote *et al.,* 2004), while right whales (Eubalaena glacialis) have been observed to shift the frequency content of their calls upward while reducing the rate of calling in areas of increased anthropogenic noise (Parks *et al.,* 2007b). In some cases, animals may cease sound production during production of aversive signals (Bowles *et al.,* 1994).

Avoidance is the displacement of an individual from an area or migration path as a result of the presence of a sound or other stressors, and is one of the most obvious manifestations of disturbance in marine mammals (Richardson *et al.,* 1995). For example, gray whales (Eschrictius robustus) are known to change direction—deflecting from customary migratory paths—in order to avoid noise from seismic surveys (Malme *et al.,* 1984). Avoidance may be short-term, with animals returning to the area once the noise has ceased (*e.g.,* Bowles *et al.,* 1994; Goold 1996; Stone *et al.,* 2000; Morton and Symonds, 2002; Gailey *et al.,* 2007). Longer-term displacement is possible, however, which may lead to changes in abundance or distribution patterns of the affected species in the affected region if habituation to the presence of the sound does not occur (*e.g.,* Blackwell *et al.,* 2004; Bejder *et al.,* 2006; Teilmann *et al.,* 2006).

A flight response is a dramatic change in normal movement to a directed and rapid movement away from the perceived location of a sound source. The flight response differs from other avoidance responses in the intensity of the response (*e.g.,* directed movement, rate of travel). Relatively little information on flight responses of

marine mammals to anthropogenic signals exist, although observations of flight responses to the presence of predators have occurred (Connor and Heithaus 1996). The result of a flight response could range from brief, temporary exertion and displacement from the area where the signal provokes flight to, in extreme cases, marine mammal strandings (Evans and England 2001). However, it should be noted that response to a perceived predator does not necessarily invoke flight (Ford and Reeves 2008), and whether individuals are solitary or in groups may influence the response.

Behavioral disturbance can also impact marine mammals in more subtle ways. Increased vigilance may result in costs related to diversion of focus and attention (*i.e.,* when a response consists of increased vigilance, it may come at the cost of decreased attention to other critical behaviors such as foraging or resting). These effects have generally not been demonstrated for marine mammals, but studies involving fish and terrestrial animals have shown that increased vigilance may substantially reduce feeding rates (*e.g.,* Beauchamp and Livoreil 1997; Fritz *et al,,* 2002; Purser and Radford 2011). In addition, chronic disturbance can cause population declines through reduction of fitness (*e.g.,* decline in body condition) and subsequent reduction in reproductive success, survival, or both (*e.g.,* Harrington and Veitch, 1992; Daan *et al.,* 1996; Bradshaw *et al.,* 1998). However, Ridgway *et al.* (2006) reported that increased vigilance in bottlenose dolphins exposed to sound over a five-day period did not cause any sleep deprivation or stress effects.

Many animals perform vital functions, such as feeding, resting, traveling, and socializing, on a diel cycle (24-hour cycle). Disruption of such functions resulting from reactions to stressors such as sound exposure are more likely to be significant if they last more than one diel cycle or recur on subsequent days (Southall *et al.,* 2007). Consequently, a behavioral response lasting less than one day and not recurring on subsequent days is not considered particularly severe unless it could directly affect reproduction or survival (Southall *et al.,* 2007). Note that there is a difference between multi-day substantive behavioral reactions and multi-day anthropogenic activities. For example, just because an activity lasts for multiple days does not necessarily mean that individual animals are either exposed to activity-related stressors for multiple days or, further, exposed in a manner resulting in sustained multi-day substantive behavioral responses.

Stress responses—An animal's perception of a threat may be sufficient to trigger stress responses consisting of some combination of behavioral responses, autonomic nervous system responses, neuroendocrine responses, or immune responses (*e.g.,* Seyle 1950; Moberg 2000). In many cases, an animal's first and sometimes most economical (in terms of energetic costs) response is behavioral avoidance of the potential stressor. Autonomic nervous system responses to stress typically involve changes in heart rate, blood pressure, and gastrointestinal activity. These responses have a relatively short duration and may or may not have a significant long-term effect on an animal's fitness.

Neuroendocrine stress responses often involve the hypothalamus-pituitary-adrenal system. Virtually all neuroendocrine functions that are affected by stress—including immune competence, reproduction, metabolism, and behavior—are regulated by pituitary hormones. Stress-induced changes in the secretion of pituitary hormones have been implicated in failed reproduction, altered metabolism, reduced immune competence, and behavioral disturbance (*e.g.,* Moberg 1987; Blecha 2000). Increases in the circulation of glucocorticoids are also equated with stress (Romano *et al.,* 2004).

The primary distinction between stress (which is adaptive and does not normally place an animal at risk) and ''distress'' is the cost of the response. During a stress response, an animal uses glycogen stores that can be quickly replenished once the stress is alleviated. In such circumstances, the cost of the stress response would not pose serious fitness consequences. However, when an animal does not have sufficient energy reserves to satisfy the energetic costs of a stress response, energy resources must be diverted from other functions. This state of distress will last until the animal replenishes its energetic reserves sufficient to restore normal function.

Relationships between these physiological mechanisms, animal behavior, and the costs of stress responses are well-studied through controlled experiments and for both laboratory and free-ranging animals (*e.g.,* Holberton *et al.,* 1996; Hood *et al.,* 1998; Jessop *et al.,* 2003; Krausman *et al.,* 2004; Lankford *et al.,* 2005). Stress responses due to exposure to anthropogenic sounds or other stressors and their effects on marine mammals have also been reviewed (Fair and Becker 2000; Romano *et al.,* 2002b) and, more rarely, studied in wild populations (*e.g.,* Romano *et al.,* 2002a). For example, Rolland *et al.* (2012) found that noise reduction from reduced ship traffic in the Bay of Fundy was associated with decreased stress in North Atlantic right whales. These and other studies lead to a reasonable expectation that some marine mammals will experience physiological stress responses upon exposure to acoustic stressors and that it is possible that some of these would be classified as ''distress.'' In addition, any animal experiencing TTS would likely also experience stress responses (NRC, 2003).

Auditory masking—Sound can disrupt behavior through masking, or interfering with, an animal's ability to detect, recognize, or discriminate between acoustic signals of interest (*e.g.,* those used for intraspecific communication and social interactions, prey detection, predator avoidance, navigation) (Richardson *et al.,* 1995). Masking occurs when the receipt of a sound is interfered with by another coincident sound at similar frequencies and at similar or higher intensity, and may occur whether the sound is natural (*e.g.,* snapping shrimp, wind, waves, precipitation) or anthropogenic (*e.g.,* shipping, sonar, seismic exploration) in origin. The ability of a noise source to mask biologically important sounds depends on the characteristics of both the noise source and the signal of interest (*e.g.,* signal-to-noise ratio, temporal variability, direction), in relation to each other and to an animal's hearing abilities (*e.g.,* sensitivity, frequency range, critical ratios, frequency discrimination, directional discrimination, age or TTS hearing loss), and existing ambient noise and propagation conditions.

Under certain circumstances, marine mammals experiencing significant masking could also be impaired from maximizing their performance fitness in survival and reproduction. Therefore, when the coincident (masking) sound is man-made, it may be considered harassment when disrupting or altering critical behaviors. It is important to distinguish TTS and PTS, which persist after the sound exposure, from masking, which occurs during the sound exposure. Because masking (without resulting in TS) is not associated with abnormal physiological function, it is not considered a physiological effect, but rather a potential behavioral effect.

The frequency range of the potentially masking sound is important in determining any potential behavioral impacts. For example, low-frequency signals may have less effect on high-frequency echolocation sounds produced by odontocetes but are more

likely to affect detection of mysticete communication calls and other potentially important natural sounds such as those produced by surf and some prey species. The masking of communication signals by anthropogenic noise may be considered as a reduction in the communication space of animals (*e.g.,* Clark *et al.,* 2009) and may result in energetic or other costs as animals change their vocalization behavior (*e.g.,* Miller *et al.,* 2000; Foote *et al.,* 2004; Parks *et al.,* 2007b; Di Iorio and Clark 2009; Holt *et al.,* 2009). Masking can be reduced in situations where the signal and noise come from different directions (Richardson et al., 1995), through amplitude modulation of the signal, or through other compensatory behaviors (Houser and Moore 2014). Masking can be tested directly in captive species (*e.g.,* Erbe 2008), but in wild populations it must be either modeled or inferred from evidence of masking compensation. There are few studies addressing real-world masking sounds likely to be experienced by marine mammals in the wild (*e.g.,* Branstetter *et al.,* 2013).

Masking affects both senders and receivers of acoustic signals and can potentially have long-term chronic effects on marine mammals at the population level as well as at the individual level. Low-frequency ambient sound levels have increased by as much as 20 dB (more than three times in terms of SPL) in the world's ocean from pre-industrial periods, with most of the increase from distant commercial shipping (Hildebrand 2009). All anthropogenic sound sources, but especially chronic and lower-frequency signals (*e.g.,* from vessel traffic), contribute to elevated ambient sound levels, thus intensifying masking.

Acoustic Effects, Underwater

Potential Effects of Pile Driving Sound

The effects of sounds from pile driving might include one or more of the following: Temporary or permanent hearing impairment, non-auditory physical or physiological effects, behavioral disturbance, and masking (Richardson *et al.,* 1995; Gordon *et al.,* 2003; Nowacek *et al.,* 2007; Southall *et al.,* 2007). The effects of pile driving on marine mammals are dependent on several factors, including the type and depth of the animal; the pile size and type, and the intensity and duration of the pile driving sound; the substrate; the standoff distance between the pile and the animal; and the sound propagation properties of the environment. Impacts to marine mammals from pile driving activities are expected to result primarily from acoustic pathways. As such, the degree of effect is intrinsically related to the frequency, received level, and duration of the sound exposure, which are in turn influenced by the distance between the animal and the source. The further away from the source, the less intense the exposure should be. The substrate and depth of the habitat affect the sound propagation properties of the environment. In addition, substrates that are soft (*e.g.,* sand) would absorb or attenuate the sound more readily than hard substrates (*e.g.,* rock), which may reflect the acoustic wave. Soft porous substrates would also likely require less time to drive the pile, and possibly less forceful equipment, which would ultimately decrease the intensity of the acoustic source.

In the absence of mitigation, impacts to marine species could be expected to include physiological and behavioral responses to the acoustic signature (Viada *et al.,* 2008). Potential effects from impulsive sound sources like pile driving can range in severity from effects such as behavioral disturbance to temporary or permanent hearing impairment (Yelverton *et al.,* 1973). Due to the nature of the pile driving sounds in the project, behavioral disturbance is the most likely effect from the proposed activity. Marine mammals exposed to high intensity sound repeatedly or for prolonged periods can experience hearing threshold shifts. PTS constitutes injury, but TTS does not (Southall *et al.,* 2007). Based on the best scientific information available, the SPLs for the construction activities in this project are below the thresholds that could cause TTS or the onset of PTS (Table 4).

Non-auditory Physiological Effect***s***

Non-auditory physiological effects or injuries that theoretically might occur in marine mammals exposed to strong underwater sound include stress, neurological effects, bubble formation, resonance effects, and other types of organ or tissue damage (Cox *et al.,* 2006; Southall *et al.,* 2007). Studies examining such effects are limited. In general, little is known about the potential for pile driving to cause non-auditory physical effects in marine mammals. Available data suggest that such effects, if they occur at all, would presumably be limited to short distances from the sound source and to activities that extend over a prolonged period. The available data do not allow identification of a specific exposure level above which non-auditory effects can be expected (Southall *et al.,* 2007) or any meaningful quantitative predictions of the numbers (if any) of marine mammals that might be affected in those ways. We do not expect any non-auditory physiological effects because of mitigation that prevents animals from approach the source too closely, as well as source levels with very small Level A isopleths. Marine mammals that show behavioral avoidance of pile driving, including some odontocetes and some pinnipeds, are especially unlikely to incur on-auditory physical effects.

Disturbance Reactions

Responses to continuous sound, such as vibratory pile installation, have not been documented as well as responses to pulsed sounds. With both types of pile driving, it is likely that the onset of pile driving could result in temporary, short term changes in an animal's typical behavior and/or avoidance of the affected area. These behavioral changes may include (Richardson *et al.,* 1995): Changing durations of surfacing and dives, number of blows per surfacing, or moving direction and/or speed; reduced/increased vocal activities; changing/cessation of certain behavioral activities (such as socializing or feeding); visible startle response or aggressive behavior (such as tail/fluke slapping or jaw clapping); avoidance of areas where sound sources are located; and/or flight responses (*e.g.,* pinnipeds flushing into water from haul-outs or rookeries). Pinnipeds may increase their haul-out time, possibly to avoid in-water disturbance (Thorson and Reyff 2006). If a marine mammal responds to a stimulus by changing its behavior (*e.g.,* through relatively minor changes in locomotion direction/speed or vocalization behavior), the response may or may not constitute taking at the individual level, and is unlikely to affect the stock or the species as a whole. However, if a sound source displaces marine mammals from an important feeding or breeding area for a prolonged period, impacts on animals, and if so potentially on the stock or species, could potentially be significant (*e.g.,* Lusseau and Bejder 2007; Weilgart 2007).

The biological significance of many of these behavioral disturbances is difficult to predict, especially if the detected disturbances appear minor. However, the consequences of behavioral modification could be expected to be biologically significant if the change affects growth, survival, or reproduction. Significant behavioral modifications that could potentially lead to effects on growth, survival, or reproduction include:

- Drastic changes in diving/surfacing patterns (such as those thought to cause beaked whale stranding due to exposure to military mid-frequency tactical sonar);
- Longer-term habitat abandonment due to loss of desirable acoustic environment; and
- Longer-term cessation of feeding or social interaction.

The onset of behavioral disturbance from anthropogenic sound depends on both external factors (characteristics of sound sources and their paths) and the specific characteristics of the receiving animals (hearing, motivation, experience, demography) and is difficult to predict (Southall *et al.,* 2007).

Auditory Masking

Natural and artificial sounds can disrupt behavior by masking. The frequency range of the potentially masking sound is important in determining any potential behavioral impacts. Because sound generated from in-water pile driving is mostly concentrated at low frequency ranges, it may have less effect on high frequency echolocation sounds made by porpoises. The most intense underwater sounds in the proposed action are those produced by impact pile driving. Given that the energy distribution of pile driving covers a broad frequency spectrum, sound from these sources would likely be within the audible range of marine mammals present in the project area. Impact pile driving activity is relatively short-term, with rapid pulses occurring for approximately fifteen minutes per pile. The probability for impact pile driving resulting from this proposed action masking acoustic signals important to the behavior and survival of marine mammal species is low. Vibratory pile driving is also relatively short-term, with rapid oscillations occurring for approximately one and a half hours per pile. It is possible that vibratory pile driving resulting from this proposed action may mask acoustic signals important to the behavior and survival of marine mammal species, but the short-term duration and limited affected area would result in insignificant impacts from masking. Any masking event that could possibly rise to Level B harassment under the MMPA would occur concurrently within the zones of behavioral harassment already estimated for vibratory and impact pile driving, and which have already been taken into account in the exposure analysis. Pile driving would occur for only two to three hours per day for two to three days so we do not anticipate masking to significantly affect marine mammals.

Acoustic Effects, Airborne

Pinnipeds that occur near the project site could be exposed to airborne sounds associated with pile driving that have the potential to cause behavioral harassment, depending on their distance from pile driving activities. This primarily is related to harbor seals due to the close proximity of the adjacent rookery; however, California sea lions may also be randomly haul-out nearby. Cetaceans are not expected to be exposed to airborne sounds that would result in harassment as defined under the MMPA.

Airborne noise will primarily be an issue for pinnipeds that are swimming or hauled out near the project site within the range of noise levels elevated above the acoustic criteria. The airborne threshold for harbor seals is 90 dB rms re 20μPa and for other pinnipeds is 100 dB rms re 20μPa. We recognize that pinnipeds in the water could be exposed to airborne sound that may result in behavioral harassment when looking with their heads above water. Most likely, airborne sound would cause behavioral responses similar to those discussed above in relation to underwater sound. For instance, anthropogenic sound could cause hauled-out pinnipeds to exhibit changes in their normal behavior, such as reduction in vocalizations, or cause them to temporarily abandon the area and move further from the source. However, these animals would previously have been 'taken' as a result of exposure to underwater sound above the behavioral harassment thresholds, which are in all cases larger than those associated with airborne sound. Thus, the behavioral harassment of these animals is already accounted for in these estimates of potential take. Multiple instances of exposure to sound above NMFS' thresholds for behavioral harassment are not believed to result in increased behavioral disturbance, in either nature or intensity of disturbance reaction. Therefore, we do not believe that authorization of incidental take resulting from airborne sound for pinnipeds is warranted, and airborne sound is not discussed further here.

Anticipated Effects on Habitat

The proposed activities at the Project area would not result in permanent negative impacts to habitats used directly by marine mammals, but may have potential short-term impacts to food sources such as forage fish and may affect acoustic habitat (see masking discussion above). There are no known foraging hotspots or other ocean bottom structure of significant biological importance to marine mammals present in the marine waters of the project area during the construction window. Therefore, the main impact issue associated with the proposed activity would be temporarily elevated sound levels and the associated direct effects on marine mammals, as discussed previously in this document. The primary potential acoustic impacts to marine mammal habitat are associated with elevated sound levels produced by vibratory and impact pile driving in the area. Physical impacts to the environment such as construction debris are unlikely and no pile driving will occur on the haulout beach.

In-Water Construction Effects on Potential Prey (Fish)

Construction activities would produce continuous (*i.e.,* vibratory pile driving) and pulsed (*i.e.* impact driving) sounds. Fish react to sounds that are especially strong and/or intermittent low-frequency sounds. Short duration, sharp sounds can cause overt or subtle changes in fish behavior and local distribution. Hastings and Popper (2005) identified several studies that suggest fish may relocate to avoid certain areas of sound energy. Additional studies have documented effects of pile driving on fish, although several are based on studies in support of large, multiyear bridge construction projects (*e.g.,* Scholik and Yan 2001, 2002; Popper and Hastings 2009). Sound pulses at received levels of 160 dB may cause subtle changes in fish behavior. SPLs of 180 dB may cause noticeable changes in behavior (Pearson *et al.,* 1992; Skalski *et al.,* 1992). SPLs of sufficient strength have been known to cause injury to fish and fish mortality.

The most likely impact to fish from pile driving activities at the project area would be temporary behavioral avoidance of the area. The duration of fish avoidance of this area after pile driving stops is unknown, but a rapid return to normal recruitment, distribution and behavior is anticipated. In general, impacts to marine mammal prey species are expected to be minor and temporary due to the short timeframe for the project.

In summary, given the short daily duration of sound associated with individual pile driving events and the relatively small areas being affected, pile driving associated with the proposed action are not likely to have a permanent, adverse effect on any fish habitat, or populations of fish species. Thus, any impacts to marine mammal habitat are not expected to cause significant or long-term consequences

for individual marine mammals or their populations.

Estimated Take

This section provides an estimate of the number of incidental takes proposed for authorization through this IHA, which will inform both NMFS' consideration of whether the number of takes is ''small'' and the negligible impact determination.

Harassment is the only type of take expected to result from these activities. Except with respect to certain activities not pertinent here, section 3(18) of the MMPA defines ''harassment'' as: Any act of pursuit, torment, or annoyance which (i) has the potential to injure a marine mammal or marine mammal stock in the wild (Level A harassment); or (ii) has the potential to disturb a marine mammal or marine mammal stock in the wild by causing disruption of behavioral patterns, including, but not limited to, migration, breathing, nursing, breeding, feeding, or sheltering (Level B harassment).

Authorized takes would be by Level B harassment only, in the form of disruption of behavioral patterns for individual marine mammals resulting from exposure to pile driving. Based on the nature of the activity, Level A harassment is neither anticipated nor proposed to be authorized.

As described previously, no mortality is anticipated or proposed to be authorized for this activity. Below we describe how the take is estimated.

Described in the most basic way, we estimate take by considering: (1) Acoustic thresholds above which NMFS believes the best available science indicates marine mammals will be behaviorally harassed or incur some degree of permanent hearing impairment; (2) the area or volume of water that will be ensonified above these levels in a day; (3) the density or occurrence of marine mammals within these ensonified areas; and, (4) and the number of days of activities. Below, we describe these components in more detail and present the proposed take estimate.

Acoustic Thresholds

Using the best available science, NMFS has developed acoustic thresholds that identify the received level of underwater sound above which exposed marine mammals would be reasonably expected to be behaviorally harassed (equated to Level B harassment) or to incur PTS of some degree (equated to Level A harassment).

Level B Harassment for non-explosive sources—Though significantly driven by received level, the onset of behavioral disturbance from anthropogenic noise exposure is also informed to varying degrees by other factors related to the source (*e.g.,* frequency, predictability, duty cycle), the environment (*e.g.,* bathymetry), and the receiving animals (hearing, motivation, experience, demography, behavioral context) and can be difficult to predict (Southall *et al.,* 2007, Ellison *et al.,* 2011). Based on what the available science indicates and the practical need to use a threshold based on a factor that is both predictable and measurable for most activities, NMFS uses a generalized acoustic threshold based on received level to estimate the onset of behavioral harassment. NMFS predicts that marine mammals are likely to be behaviorally harassed in a manner we consider Level B harassment when exposed to underwater anthropogenic noise above received levels of 120 dB re 1 µPa (rms) for continuous (*e.g.* vibratory pile-driving, drilling) and above 160 dB re 1 µPa (rms) for non-explosive impulsive (*e.g.,* seismic airguns) or intermittent (*e.g.,* scientific sonar) sources.

Venoco's project includes the use of continuous (vibratory pile driving) and impulsive (impact pile driving) sources, and therefore the 120 and 160 dB re 1 µPa (rms) thresholds are applicable.

Level A harassment for non-explosive sources—NMFS' Technical Guidance for Assessing the Effects of Anthropogenic Sound on Marine Mammal Hearing (Technical Guidance, 2016) identifies dual criteria to assess auditory injury (Level A harassment) to five different marine mammal groups (based on hearing sensitivity) as a result of exposure to noise from two different types of sources (impulsive or non-impulsive). Venoco's construction activity includes the use of impulsive (impact pile driving) and non-impulsive (vibratory pile driving) sources.

These thresholds were developed by compiling and synthesizing the best available science and soliciting input multiple times from both the public and peer reviewers to inform the final product, and are provided in the table below. The references, analysis, and methodology used in the development of the thresholds are described in NMFS 2016 Technical Guidance, which may be accessed at: *http://www.nmfs.noaa.gov/pr/acoustics/guidelines.htm.*

TABLE 4—THRESHOLDS IDENTIFYING THE ONSET OF PERMANENT THRESHOLD SHIFT

Hearing group	PTS onset acoustic thresholds * (received level)	
	Impulsive	Non-impulsive
Low-Frequency (LF) Cetaceans	*Cell 1:* $L_{pk,flat}$: 219 dB; $L_{E,LF,24h}$: 183 dB	*Cell 2:* $L_{E,LF,24h}$: 199 dB.
Mid-Frequency (MF) Cetaceans	*Cell 3:* $L_{pk,flat}$: 230 dB; $L_{E,MF,24h}$: 185 dB	*Cell 4:* $L_{E,MF,24h}$: 198 dB.
High-Frequency (HF) Cetaceans	*Cell 5:* $L_{pk,flat}$: 202 dB; $L_{E,HF,24h}$: 155 dB	*Cell 6:* $L_{E,HF,24h}$: 173 dB.
Phocid Pinnipeds (PW) (Underwater)	*Cell 7:* $L_{pk,flat}$: 218 dB; $L_{E,PW,24h}$: 185 dB	*Cell 8:* $L_{E,PW,24h}$: 201 dB.
Otariid Pinnipeds (OW) (Underwater)	*Cell 9:* $L_{pk,flat}$: 232 dB; $L_{E,OW,24h}$: 203 dB	*Cell 10:* $L_{E,OW,24h}$: 219 dB.

* Dual metric acoustic thresholds for impulsive sounds: Use whichever results in the largest isopleth for calculating PTS onset. If a non-impulsive sound has the potential of exceeding the peak sound pressure level thresholds associated with impulsive sounds, these thresholds should also be considered.

Note: Peak sound pressure (L_{pk}) has a reference value of 1 µPa, and cumulative sound exposure level (L_E) has a reference value of 1µPa^{2}s. In this Table, hresholds are abbreviated to reflect American National Standards Institute standards (ANSI 2013). However, peak sound pressure is defined by ANSI as incorporating frequency weighting, which is not the intent for this Technical Guidance. Hence, the subscript ''flat'' is being included to indicate peak sound pressure should be flat weighted or unweighted within the generalized hearing range. The subscript associated with cumulative sound exposure level thresholds indicates the designated marine mammal auditory weighting function (LF, MF, and HF cetaceans, and PW and OW pinnipeds) and that the recommended accumulation period is 24 hours. The cumulative sound exposure level thresholds could be exceeded in a multitude of ways (*i.e.,* varying exposure levels and durations, duty cycle). When possible, it is valuable for action proponents to indicate the conditions under which these acoustic thresholds will be exceeded.

Ensonified Area

Here, we describe operational and environmental parameters of the activity that will feed into identifying the area ensonified above the acoustic thresholds.

Pile driving generates underwater noise that can potentially result in disturbance to marine mammals in the project area. Transmission loss (TL) is the decrease in acoustic intensity as an acoustic pressure wave propagates out from a source. TL parameters vary with frequency, temperature, sea conditions, current, source and receiver depth, water depth, water chemistry, and bottom composition and topography. The general formula for underwater TL is:

TL = B * log10(R1/R2),

Where:

R1 = the distance of the modeled SPL from the driven pile, and

R2 = the distance from the driven pile of the initial measurement.

This formula neglects loss due to scattering and absorption, which is assumed to be zero here. The degree to which underwater sound propagates away from a sound source is dependent on a variety of factors, most notably the water bathymetry and presence or absence of reflective or absorptive conditions including in-water structures and sediments. Spherical spreading occurs in a perfectly unobstructed (free-field) environment not limited by depth or water surface, resulting in a 6 dB reduction in sound level for each doubling of distance from the source (20*log[range]). Cylindrical spreading occurs in an environment in which sound propagation is bounded by the water surface and sea bottom, resulting in a reduction of 3 dB in sound level for each doubling of distance from the source (10*log[range]). A practical spreading value of 15 is often used under conditions, such as at the Biorka Island dock, where water increases with depth as the receiver moves away from the shoreline, resulting in an expected propagation environment that would lie between spherical and cylindrical spreading loss conditions. Practical spreading loss (4.5 dB reduction in sound level for each doubling of distance) is assumed here.

Underwater Sound—The intensity of pile driving sounds is greatly influenced by factors such as the type of piles, hammers, and the physical environment in which the activity takes place. A number of studies, primarily on the west coast, have measured sound produced during underwater pile driving projects. These data are largely for impact driving of steel pipe piles and concrete piles as well as vibratory driving of steel pipe piles.

Reference sound levels used by Venoco were based on underwater sound measurements documented for a number of pile-driving projects with similar pile sizes and types at similar sites in California (*i.e.,* areas of soft substrate where water depths are less than 16 feet (5 meters) (Caltrans 2009)). The noise energy would dissipate as it spreads from the pile at a rate of at least 4.5 dB per doubling of distance, which is practical spreading (Caltrans 2009). This is a conservative value for areas of shallow water with soft substrates, and actual dissipation rates would likely be higher. Using this information, and the pile information presented in Table 1, underwater sound levels were estimated using the practical spreading model to determine over what distance the thresholds would be exceeded.

Venoco used the NMFS Optional User Spreadsheet, available at *http://www.nmfs.noaa.gov/pr/acoustics/Acoustic%20Guidance%20Files/march_v1.1_blank_spreadsheet.xlsx,* to input project-specific parameters and calculate the isopleths for Level A and Level B zones from both impact and vibratory pile driving. Input to the Optional User Spreadsheet are based on project-specific parameters that provide the sound source characteristics, including the estimated duration of pile driving, the estimated number of strikes per pile (for the impact hammer method); and the maximum number of piles to be driven in a day. The estimated source level, duration of pile driving for each pile, the number of strikes per pile (for impact driving), and the number of piles per day for each pile driving method, as listed in Table 1. As noted in Table 1, each pile will require approximately 25 minutes of vibratory driving, and up to 6 piles could be installed by this method in a single day. During this time the sound levels above and below water will be in excess of normal pier operations. In the unlikely event that an impact hammer is used, installation of a single pile will require an estimated 400 hammer strikes over 15 minutes, and up to 6 piles could be installed by this method in a single day.

Venoco used the Caltrans (2015) guidelines for selection of an appropriate pile driving sound source level for a composite 50-foot, 16-inch pipe/12-foot,14-inch H-pile configuration, for both vibratory and impact driving methods, taking into consideration that only the H-pile segment of the pile (the bottom portion) will be driven below the mudline, thus the predominant underwater noise source will emanate from the steel pipe segment.

Source Levels

For the impact hammer method, the average sound pressure level measured in dB is based on the 16-inch steel pipe sound levels (Caltrans 2015, Table I.2–1), adjusted upward for the composite 16-inch pipe/14-inch H-pile design because the sound level for the composite pile is anticipated to be greater than the Caltrans reference sound level for 16-inch steel pipe (158 dB), but less than the Caltrans reference sound level for 14-inch steel H-pile (177 dB). As described above, the replacement piles will be a composite of two materials, pre-welded into a single pile prior to driving. The upper section will consist of 48 to 50 feet (15 meters) of 16-inch diameter x 0.50-inch wall thickness pipe pile and the bottom segment will consist of a 12-foot (4-meter) long 14 inch x 73 pound H-pile. The water depth ranges from 13 to 27 feet (4 to 8 meters) at the end of the Pier, with seasonal variations due to beach sand withdraw and return between the winter and summer seasons. When impact driving is initiated the H-pile will partially enter the mud substrate (*e.g.,* up to two to four feet) pushed by hammer weight and the weight of the pipe itself due to soft substrate (mud) at the seafloor surface. Thus, when impact driving begins only a portion of the 12-foot H pile would be exposed in the water column and most of the length of pile within the water column will be steel pipe pile. As pile driving progresses, the H-pile portion of the fender pile will continue to enter the seabed, and the proportion of H-pile to steel pipe exposed to the water column will decrease until the H-pile is entirely buried or until pile driving is suspended at a minimum depth of 6 feet. Consequently, the sound level for the composite pile is anticipated to be greater than the Caltrans reference sound level for 16-inch steel pipe (158 dB), and less than the Caltrans reference sound level for 14-inch steel H-pile (177 dB).

Based on these factors, the reference sound level from composite pile was based on 16-inch steel pipe pile, with an upward adjustment of 6 dB (to 164 dB). This 6 dB adjustment is divided into two parts: 3 dB (one doubling) adjustment for the H-pile itself (*i.e.,* the portion of H-pile being driven by impact hammer); and 3 dB (a second doubling) adjustment for the H-pile that is acting as a foundation, and thus providing some resistance to the pipe pile while it is being driven by impact hammer. This sound level, which represents two

doublings of the reference sound level of the 16-inch steel pipe, is considered sufficiently conservative to account for the H-pile portion of the fender pile that would be exposed in the water column and serving as a foundation to the pipe pile during impact driving.

For the vibratory driving method, the average sound pressure level measured in dB is based on the 12-inch H-pile sound levels (Caltrans 2015, Table I.2–2), adjusted upward by 4 dB for composite 16-inch pipe/14-inch H-pile design. Caltrans data do not include specific vibratory reference sound levels for the 14-inch H-pile. Therefore, it was assumed that doubling the reference sound level for 12-inch H-pile plus 1 dB [*i.e.,* a 4 dB increase], would provide a sufficiently conservative assumption for a 14-inch H-pile.

TABLE 5—NMFS OPTION USER SPREADSHEET INPUTS

User spreadsheet input			
	Impact driver		Vibratory driver
Spreadsheet Tab Used	(E.1) Impact piledriving	Spreadsheet Tab Used	(A) Non-impulsive, continuous.
Source Level (Single Strike/shot SEL)	197.8	Source Level (RMS SPL)	154.
Weighting Factor Adjustment (kHz)	2	Weighting Factor Adjustment (kHz).	2.5.
(a) Number of strikes per pile	400	Activity duration within 24 hours (hrs).	2.5.
(a) Number of piles per day	6.		
Propagation (xLogR)	15	Propagation (xLogR)	15.
Distance of source level measurement (meters)+	10		10.

+ Unless otherwise specified, source levels are referenced 1 m from the source.

Level A Isopleths

When NMFS Technical Guidance (2016) was published, in recognition of the fact that ensonified area/volume could be more technically challenging to predict because of the duration component in the new thresholds, we developed an Optional User Spreadsheet that includes tools to help predict a simple isopleth that can be used in conjunction with marine mammal density or occurrence to help predict takes. We note that because of some of the assumptions included in the methods used for these tools, we anticipate that isopleths produced are typically going to be overestimates of some degree, which will result in some degree of overestimate of Level A take. However, these tools offer the best way to predict appropriate isopleths when more sophisticated 3D modeling methods are not available, and NMFS continues to develop ways to quantitatively refine these tools, and will qualitatively address the output where appropriate. For stationary sources, NMFS Optional User Spreadsheet predicts the closest distance at which, if a marine mammal remained at that distance the whole duration of the activity, it would not incur PTS. Inputs used in the User Spreadsheet, and the resulting isopleths are reported below. The inputs Venoco used to obtain the isopleths discussed below are summarized in Table 5 above.

TABLE 6—EXPECTED DISTANCES OF LEVEL A THRESHOLD EXCEEDANCE WITH IMPACT AND VIBRATORY DRIVER

User spreadsheet output					
	PTS isopleth (meters)				
Source type	Low-frequency cetaceans	Mid-frequency cetaceans	High-frequency cetaceans	Phocid pinnipeds	Otariid pinnipeds
Impact driving	96.9	3.4	115.4	51.8	3.8
Vibratory driving	4.3	0.4	6.4	2.6	0.2

Level B Isopleths

Using the same source level and transmission loss inputs discussed in the Level A isopleths section above, the Level B distance was calculated for both impact and vibratory driving, assuming practical spreading. For vibratory driving, the Level B isopleth extends out to 1,848 meters (1.15 miles; 6,063 feet) from the pile driving site. For impact driving, the Level B isopleth extends out to 34 meters (112 feet) from the pile driving site.

TABLE 7—EXPECTED DISTANCES OF LEVEL B THRESHOLD EXCEEDANCE WITH IMPACT AND VIBRATORY DRIVER

Level B isopleth (meters)		
Source type	160 dB (impact)	120 dB (vibratory)
Impact driving	74	N/A
Vibratory driving	N/A	1,848

Marine Mammal Occurrence

In this section we provide the information about the presence, density, or group dynamics of marine mammals that will inform the take calculations.

At-sea densities for marine mammal species have not been determined for marine mammals in the coastal Carpinteria area; therefore, all estimates here are determined by using observational data from biologists, peer-reviewed literature, and information obtained from personal communication with other companies that have conducted activities on or near the Carpinteria beach area. Additionally, some harbor seal information was collected by the Carpinteria Seal Watch.

Take Calculation and Estimation

Here we describe how the information provided above is brought together to produce a quantitative take estimate.

Level A take is not expected or proposed to be authorized for this activity. Of the two types of pile driving, the largest Level A isopleth is from impact driving at 51.8 meters for harbor seals, 3.8 meters for California sea lion, and 3.45 meters for bottlenose dolphins. Neither bottlenose dolphins nor California sea lions are resident to this area and are not expected to remain in water near the beach for an extended duration of time. At 15 minutes per pile, this is equal to 90 minutes per day; however, those 90 minutes would be spread out over multiple hours to account for equipment re-sets, breaks, etc. Because dolphin and sea lion are not resident and not known to linger in the area, full exposure to all impact pile driving within a day is highly unlikely. It is even more unlikely that these species would remain within 4 meters of the sound source for a continuous period of two and a half hours in a day. Harbor seals are resident to the area and the beach at the base of the pier is a frequently used haulout. However, it is unlikely a harbor seal would remain in water during the total time of construction within a day, as they likely will be transiting out from the beach to forage and then returning to the beach. Therefore, it is estimated that no marine mammal of the three species most likely to occur would remain in close enough proximity for the duration of daily construction to be exposed to accumulated energy levels reaching the onset of PTS. Hence no Level A take is proposed to be authorized.

Because of the lack of at-sea density information in the region of the project, estimated marine mammal takes were calculated using the following formula:

Level B exposure estimate = N (number of animals) in the ensonified area * Number of days of noise generating activities.

Harbor Seal

Harbor seals are the most abundant species found at the project site. This beach is a known rookery for the local population, although work will be conducted outside of the pupping season. Although a wealth of data exists from the Carpinteria Seal Watch, these data are sometimes incomplete and data from some periods are missing. Moreover, these data were gathered during the period the Carpinteria Seal Watch does its monitoring (about January 1 through May 30 of each year). From June 1 through December 30 of each year, such data are virtually absent. The project is scheduled to begin in the fall, when the seals have largely abandoned the beach because it is open to the public and disturbances are chronic. The seals switch to a nighttime haul-out pattern during this period, hauling out after sundown and before dawn, unless the tide is very high (Seagars 1988). In such cases, the amount of haul-out area is very restricted and the seals are largely absent during this season. Reliable density data are not available from which to calculate the expected number of harbor seals within the Level B harassment zone from vibratory pile driving. Based on review of the available observational data, similar past experience in the project vicinity, and project timing (fall season, daytime hours), an estimated range of 0 to 50 harbor seals is anticipated to be present within the project vicinity during work periods. Therefore, it is estimated that up to 50 seals may be taken per day by Level B harassment. Over two and a half days of activity, that results in a total of 125 instances of harbor seal takes during the project.

California Sea Lion

California sea lions are abundant throughout the SCB but do not regularly use Carpinteria as a haulout in large numbers. Individuals are usually observed hauled out on offshore structures approximately 0.75 miles southeast of the pier. Reliable density data are not available from which to calculate the expected number of sea lions within the Level B harassment impact zone for vibratory pile. Based on the available observational data and project timing (fall season), an estimated range of zero to 15 sea lions is anticipated to be present within the project vicinity during work periods. Therefore it is estimated that up to 15 California sea lions may be taken per day by Level B harassment in a day. Over two and a half days of activity, that results in a total of 38 California sea lions taken during the project as it is not known if the California sea lions that come to the beach are the same individuals.

Bottlenose Dolphin

Bottlenose dolphins may occur sporadically near the project area, but never in large numbers. Past projects have revealed anywhere from 2 to 32 animals present at any one time, with an average pod size of 8 (MMCG 1995; 1998a, b, d, and e; 2001a and b; 2006; 2011c, 2013b, and 2014b). Therefore, it is estimated that no more than 16 coastal bottlenose dolphins (two pods of average group size) may be taken by Level B harassment in a day. Over two and a half days of activity, that results in a total of 40 bottlenose dolphins taken during the project as it is not known if any of the animals sighted would be repeated individuals.

Proposed Mitigation

In order to issue an IHA under Section 101(a)(5)(D) of the MMPA, NMFS must set forth the permissible methods of taking pursuant to such activity, and other means of effecting the least practicable impact on such species or stock and its habitat, paying particular attention to rookeries, mating grounds, and areas of similar significance, and on the availability of such species or stock for taking for certain subsistence uses (latter not applicable for this action). NMFS regulations require applicants for incidental take authorizations to include information about the availability and feasibility (economic and technological) of equipment, methods, and manner of conducting such activity or other means of effecting the least practicable adverse impact upon the affected species or stocks and their habitat (50 CFR 216.104(a)(11)).

In evaluating how mitigation may or may not be appropriate to ensure the least practicable adverse impact on species or stocks and their habitat, as well as subsistence uses where applicable, we carefully consider two primary factors:

(1) The manner in which, and the degree to which, the successful implementation of the measure(s) is expected to reduce impacts to marine mammals, marine mammal species or stocks, and their habitat. This considers the nature of the potential adverse impact being mitigated (likelihood, scope, range). It further considers the likelihood that the measure will be effective if implemented (probability of accomplishing the mitigating result if implemented as planned) the likelihood of effective implementation (probability implemented as planned). and;

(2) the practicability of the measures for applicant implementation, which may consider such things as cost, impact on operations, and, in the case of a military readiness activity, personnel safety, practicality of implementation, and impact on the effectiveness of the military readiness activity.

The following measures would apply to Venoco's mitigation through shutdown and disturbance zones:

Shutdown Zone

For all pile driving activities, Venoco will establish a shutdown zone intended to contain the area in which SELs equal or exceed the auditory injury criteria for cetaceans and pinnipeds. The purpose of a shutdown zone is to define an area within which shutdown of activity would occur upon sighting of a marine mammal (or in anticipation of an animal entering the defined area), thus further preventing injury of marine mammals (as described previously under Potential Effects of the Specified Activity on Marine Mammals, serious injury or death are unlikely outcomes even in the absence of mitigation measures). Venoco proposes a shutdown zone for the largest Level A isopleth, which is the phocid Level A isopleth of 51.8 meters.

Disturbance Zone

Disturbance zones are the areas in which SPLs equal or exceed 160 and 120 dB rms (for impact and vibratory pile driving, respectively). Disturbance zones provide utility for monitoring conducted for mitigation purposes (*i.e.,* shutdown zone monitoring) by establishing monitoring protocols for areas adjacent to the shutdown zones and identifying amount of take. Monitoring of disturbance zones enables observers to be aware of and communicate the presence of marine mammals in the project area but outside the shutdown zone and thus prepare for potential shutdowns of activity. However, the primary purpose of disturbance zone monitoring is for documenting instances of Level B harassment; disturbance zone monitoring is discussed in greater detail later (see Proposed Monitoring and Reporting). Nominal radial distances for disturbance zones are shown in Table 7.

Given the size of the disturbance zone for vibratory pile driving, it is impossible to guarantee that all animals would be observed or to make comprehensive observations of fine-scale behavioral reactions to sound, and only a portion of the zone (*e.g.,* what may be reasonably observed by visual observers stationed on the pier and bluff above the beach) would be observed. In order to document observed instances of harassment, monitors record all marine mammal observations, regardless of location. The observer's location, as well as the location of the pile being driven, is known from a GPS. The location of the animal is estimated as a distance from the observer, which is then compared to the location from the pile. It may then be estimated whether the animal was exposed to sound levels constituting incidental harassment on the basis of predicted distances to relevant thresholds in post-processing of observational and acoustic data, and a precise accounting of observed incidences of harassment created. This information may then be used to extrapolate observed takes in the observable zone multiplied by the porton of the zone that is unseen to reach an approximate understanding of predicted total takes (Area seen/area unseen = takes observed/takes unobserved).

Based on our evaluation of the applicant's proposed measures, NMFS has preliminarily determined that the proposed mitigation measures provide the means effecting the least practicable impact on the affected species or stocks and their habitat, paying particular attention to rookeries, mating grounds, and areas of similar significance.

Monitoring Protocols

Monitoring would be conducted before, during, and after pile driving activities. Observers shall record all instances of marine mammal occurrence, regardless of distance from activity, and shall document any apparent behavioral reactions in concert with distance from piles being driven. Observations made outside the shutdown zone will not result in shutdown; that pile segment would be completed without cessation, unless the animal approaches or enters the shutdown zone, at which point all pile driving activities would be halted. Monitoring will take place from 15 minutes prior to initiation through 30 minutes post-completion of pile driving activities. Pile driving activities include the time to install a single pile or series of piles, as long as the time elapsed between uses of the pile driving equipment is no more than 30 minutes. If pile driving ceases for more than 30 minutes, the 30 minute pre-pile driving monitoring effort will take place prior to onset of pile driving.

Prior to the start of pile driving activity, the shutdown zone will be monitored for 30 minutes to ensure that it is clear of marine mammals. Pile driving will only commence once observers have declared the shutdown zone clear of marine mammals. If the shutdown zone is not clear of marine mammals, pile driving will not commence until the shut-down zone is clear. Any animals in the shut down zone prior to commencement of pile driving will be allowed to remain in the shutdown zone and their behavior will be monitored and documented. If the 51.84 m shutdown zone is not entirely visible (*e.g.,* due to dark, fog, etc.), pile driving will not commence or proceed if it is underway.

If a marine mammal approaches or enters the shutdown zone during the course of pile driving operations, activity will be halted and delayed until either the animal has voluntarily left and been visually confirmed beyond the shutdown zone or 15 minutes have passed without re-detection.

If a species for which authorization has not been granted, or if a species for which authorization has been granted but the authorized takes are met, approaches or is observed within the Level B harassment zone, activities will shut down immediately and not restart until the animals have been confirmed to have left the area for 15 minutes. If pile driving has ceased for more than 30 minutes, the 30 minute pre- pile driving monitoring will begin.

Soft Start

The use of a soft start procedure provides additional protection to marine mammals by warning or providing a chance to leave the area prior to the hammer operating at full capacity, and typically involves a requirement to initiate sound from the hammer at reduced energy followed by a waiting period. This procedure is repeated two additional times. It is difficult to specify the reduction in energy for any given hammer because of variation across drivers and, for impact hammers, the actual number of strikes at reduced energy will vary because operating the hammer at less than full power results in ''bouncing'' of the hammer as it strikes the pile, resulting in multiple ''strikes.'' For impact driving, we require an initial set of three strikes from the impact hammer at reduced energy, followed by a 30-second waiting period, then 2 subsequent 3 strike sets. Soft start will be required at the beginning of each day's impact pile driving work and at any time following a cessation of impact pile driving of 30 minutes or longer.

Timing Restrictions

Venoco will only conduct construction activities during daytime hours. Construction will also be restricted to the fall and late summer months (July through November) to avoid overlap with harbor seal pupping.

Based on our evaluation of the Venoco's proposed measures, NMFS has preliminarily determined that the proposed mitigation measures provide the means of effecting the least practicable impact on marine mammal species or stocks and their habitat, paying particular attention to rookeries,

mating grounds, and areas of similar significance.

Proposed Monitoring and Reporting

In order to issue an IHA for an activity, Section 101(a)(5)(D) of the MMPA states that NMFS must set forth, requirements pertaining to the monitoring and reporting of such taking. The MMPA implementing regulations at 50 CFR 216.104(a)(13) indicate that requests for authorizations must include the suggested means of accomplishing the necessary monitoring and reporting that will result in increased knowledge of the species and of the level of taking or impacts on populations of marine mammals that are expected to be present in the proposed action area. Effective reporting is critical both to compliance as well as ensuring that the most value is obtained from the required monitoring.

Monitoring and reporting requirements prescribed by NMFS should contribute to improved understanding of one or more of the following:

- Occurrence of marine mammal species or stocks in the area in which take is anticipated (*e.g.,* presence, abundance, distribution, density).
- Nature, scope, or context of likely marine mammal exposure to potential stressors/impacts (individual or cumulative, acute or chronic), through better understanding of: (1) Action or environment (*e.g.,* source characterization, propagation, ambient noise); (2) affected species (*e.g.,* life history, dive patterns); (3) co-occurrence of marine mammal species with the action; or (4) biological or behavioral context of exposure (*e.g.,* age, calving or feeding areas).
- Individual marine mammal responses (behavioral or physiological) to acoustic stressors (acute, chronic, or cumulative), other stressors, or cumulative impacts from multiple stressors.
- How anticipated responses to stressors impact either: (1) Long-term fitness and survival of individual marine mammals; or (2) populations, species, or stocks.
- Effects on marine mammal habitat (*e.g.,* marine mammal prey species, acoustic habitat, or other important physical components of marine mammal habitat).
- Mitigation and monitoring effectiveness.

Visual Marine Mammal Observations

Venoco will collect sighting data and behavioral responses to construction for marine mammal species observed in the region of activity during the period of activity. All marine mammal observers (MMOs) will be trained in marine mammal identification and behaviors and are required to have no other construction-related tasks while conducting monitoring. A minimum of two MMOs will be required for all pile driving activities. Venoco will monitor the shutdown zone and disturbance zone before, during, and after pile driving, with observers located at the best practicable vantage points. Based on our requirements, Venoco would implement the following procedures for pile driving:

- MMOs would be located at the best vantage point(s) in order to properly see the entire shutdown zone and as much of the disturbance zone as possible;
- During all observation periods, observers will use binoculars and the naked eye to search continuously for marine mammals;
- If the shutdown zones are obscured by fog or poor lighting conditions, pile driving at that location will not be initiated until that zone is visible. Should such conditions arise while impact driving is underway, the activity would be halted; and
- The shutdown zone (51.84 m) and observable portion of the disturbance zone around the pile will be monitored for the presence of marine mammals 30 min before, during, and 30 min after any pile driving activity.

Data Collection

We require that observers use approved data forms. Among other pieces of information, Venoco will record detailed information about any implementation of shutdowns, including the distance of animals to the pile and description of specific actions that ensued and resulting behavior of the animal, if any. In addition, Venoco will attempt to distinguish between the number of individual animals taken and the number of incidences of take. We require that, at a minimum, the following information be collected on the sighting forms:

- Date and time that monitored activity begins or ends;
- Construction activities occurring during each observation period;
- Weather parameters (*e.g.,* percent cover, visibility);
- Water conditions (*e.g.,* sea state, tide state);
- Species, numbers, and, if possible, sex and age class of marine mammals;
- Description of any observable marine mammal behavior patterns, including bearing and direction of travel, and if possible, the correlation to SPLs;
- Distance from pile driving activities to marine mammals and distance from the marine mammals to the observation point;
- Description of implementation of mitigation measures (*e.g.,* shutdown or delay);
- Locations of all marine mammal observations; and
- Other human activity in the area.

Reporting

A draft report would be submitted to NMFS within 90 days of the completion of marine mammal monitoring, or 60 days prior to the requested date of issuance of any future IHA for projects at the same location, whichever comes first. The report will include marine mammal observations pre-activity, during-activity, and post-activity during pile driving days, and will also provide descriptions of any behavioral responses to construction activities by marine mammals and a complete description of all mitigation shutdowns and the results of those actions and an extrapolated total take estimate based on the number of marine mammals observed during the course of construction. A final report must be submitted within 30 days following resolution of comments on the draft report.

Negligible Impact Analysis and Determination

NMFS has defined negligible impact as an impact resulting from the specified activity that cannot be reasonably expected to, and is not reasonably likely to, adversely affect the species or stock through effects on annual rates of recruitment or survival (50 CFR 216.103). A negligible impact finding is based on the lack of likely adverse effects on annual rates of recruitment or survival (*i.e.,* population-level effects). An estimate of the number of takes alone is not enough information on which to base an impact determination. In addition to considering estimates of the number of marine mammals that might be ''taken'' through harassment, NMFS considers other factors, such as the likely nature of any responses (*e.g.,* intensity, duration), the context of any responses (*e.g.,* critical reproductive time or location, migration), as well as effects on habitat, and the likely effectiveness of the mitigation. We also assess the number, intensity, and context of estimated takes by evaluating this information relative to population status. Consistent with the 1989 preamble for NMFS's implementing regulations (54 FR 40338; September 29, 1989), the impacts from other past and ongoing anthropogenic activities are

incorporated into this analysis via their impacts on the environmental baseline (*e.g.,* as reflected in the regulatory status of the species, population size and growth rate where known, ongoing sources of human-caused mortality, or ambient noise levels).

Pile driving activities associated from the Casitas Pier project, as outlined previously, have the potential to disturb or displace marine mammals. Specifically, the specified activities may result in take, in the form of Level B harassment (behavioral disturbance), from underwater sounds generated from pile driving. Potential takes could occur if individuals of these species are present in the ensonified zone when pile driving occurs.

No serious injury or mortality is anticipated given the nature of the activities and measures designed to minimize the possibility of injury to marine mammals. The potential for these outcomes is minimized through the construction method and the implementation of the planned mitigation measures. Specifically, vibratory and impact hammers and drilling will be the primary methods of installation. Impact pile driving produces short, sharp pulses with higher peak levels and much sharper rise time to reach those peaks. If impact driving is necessary, implementation of soft start and shutdown zones significantly reduces any possibility of injury. Given sufficient ''notice'' through use of soft start (for impact driving), marine mammals are expected to move away from a sound source that is annoying prior to it becoming potentially injurious. Venoco will use a minimum of two MMOs stationed strategically to increase detectability of marine mammals, enabling a high rate of success in implementation of shutdowns to avoid injury.

Venoco's proposed activities are localized and of relatively short duration (two and a half days of pile driving 16 piles). The project area is also very limited in scope spatially, as all work is concentrated on a single pier. These localized and short-term noise exposures may cause short-term behavioral modifications in harbor seals, California sea lions, and killer whales. Moreover, the proposed mitigation and monitoring measures are expected to further reduce the likelihood of injury, as it is unlikely an animal would remain in close proximity to the sound source with small Level A isoplths, as well as reduce behavioral disturbances. While the project area is known to be a rookery for harbor seals, the work will be conducted in a season when few harbor seals are known to be present and no breeding activities occur.

The project also is not expected to have significant adverse effects on affected marine mammals' habitat. The project activities would not modify existing marine mammal habitat for a significant amount of time. The activities may cause some fish to leave the area of disturbance, thus temporarily impacting marine mammals' foraging opportunities in a limited portion of the foraging range. However, because of the short duration of the activities and the relatively small area of the habitat that may be affected, and the decreased potential of prey species to be in the Project area during the construction work window, the impacts to marine mammal habitat are not expected to cause significant or long-term negative consequences.

Effects on individuals that are taken by Level B harassment, on the basis of reports in the literature as well as monitoring from other similar activities, will likely be limited to temporary reactions such as increased swimming speeds, increased surfacing time, flushing, or decreased foraging (if such activity were occurring) (*e.g.,* Thorson and Reyff 2006; Lerma 2014). Most likely, individuals will simply move away from the sound source and be temporarily displaced from the areas of pile driving and drilling, although even this reaction has been observed primarily only in association with impact pile driving. Thus, even repeated Level B harassment of some small subset of the overall stock is unlikely to result in any significant realized decrease in fitness for the affected individuals, and thus would not result in any adverse impact to the stock as a whole.

In summary and as described above, the following factors primarily support our preliminary determination that the impacts resulting from this activity are not expected to adversely affect the species or stock through effects on annual rates of recruitment or survival:

- No mortality is anticipated or authorized;
- Level B harassment may consist of, at worst, temporary modifications in behavior (*e.g.* temporary avoidance of habitat or changes in behavior);
- The lack of important feeding, pupping, or other areas in the action area during the construction window;
- The small impact area relative to species range size
- Mitigation is expected to minimize the likelihood and severity of the level of harassment; and
- The small percentage of the stock that may be affected by project activities (<9 percent for all stocks).

Based on the analysis contained herein of the likely effects of the specified activity on marine mammals and their habitat, and taking into consideration the implementation of the proposed monitoring and mitigation measures, NMFS preliminarily finds that the total marine mammal take from the proposed activity will have a negligible impact on all affected marine mammal species or stocks.

Small Numbers

As noted above, only small numbers of incidental take may be authorized under Section 101(a)(5)(D) of the MMPA for specified activities other than military readiness activities. The MMPA does not define small numbers and so, in practice, where estimated numbers are available, NMFS compares the number of individuals taken to the most appropriate estimation of abundance of the relevant species or stock in our determination of whether an authorization is limited to small numbers of marine mammals. Additionally, other qualitative factors may be considered in the analysis, such as the temporal or spatial scale of the activities.

Table 8 details the number of instances (harbor seals) or individuals (California sea lions and bottlenose dolphins) that animals could be exposed to received noise levels that could cause Level B harassment for the proposed work at the project site relative to the total stock abundance. The numbers of animals authorized to be taken for all species would be considered small relative to the relevant stocks or populations even if each estimated instance of take occurred to a new individual. The total percent of the population (if each instance was a separate individual) for which take is requested is less than nine percent for all stocks (Table 8). Based on the analysis contained herein of the proposed activity (including the proposed mitigation and monitoring measures) and the anticipated take of marine mammals, NMFS preliminarily finds that small numbers of marine mammals will be taken relative to the population size of the affected species or stocks.

TABLE 8—ESTIMATED NUMBERS AND PERCENTAGE OF STOCK THAT MAY BE EXPOSED TO LEVEL B HARASSMENT

Species	Proposed authorized Level B takes	Stock(s) abundance estimate [1]	Percentage of total stock (percent)
Harbor Seal (*Phoca vitulina*) *Alaska stock*	125	30,968	.40
California sea lion (*Eumatopias jubatus*) *U.S. Stock*	38	296,750	.013
Bottlenose dolphin (*Tursiops truncatus*) *California-Oregon-Washington Stock California Coastal Stock*	40	1,924	2.1
		453	8.83

[1] All stock abundance estimates presented here are from the 2016 Pacific and Alaska Stock Assessment Report.

Unmitigable Adverse Impact Analysis and Determination

There are no relevant subsistence uses of the affected marine mammal stocks or species implicated by this action. Therefore, NMFS has preliminarily determined that the total taking of affected species or stocks would not have an unmitigable adverse impact on the availability of such species or stocks for taking for subsistence purposes.

Endangered Species Act (ESA)

Section 7(a)(2) of the Endangered Species Act of 1973 (ESA: 16 U.S.C. 1531 *et seq.*) requires that each Federal agency insure that any action it authorizes, funds, or carries out is not likely to jeopardize the continued existence of any endangered or threatened species or result in the destruction or adverse modification of designated critical habitat. To ensure ESA compliance for the issuance of IHAs, NMFS consults internally, in this case with West Coast Regional Office, whenever we propose to authorize take for endangered or threatened species.

No incidental take of ESA-listed species is proposed for authorization or expected to result from this activity. Therefore, NMFS has determined that formal consultation under section 7 of the ESA is not required for this action.

Proposed Authorization

As a result of these preliminary determinations, NMFS proposes to issue an IHA to Venoco LLC for conducting fender pile replacement at Casitas Pier from October 1, 2017 to September 30, 2018, provided the previously mentioned mitigation, monitoring, and reporting requirements are incorporated. This section contains a draft of the IHA itself. The wording contained in this section is proposed for inclusion in the IHA (if issued).

1. This Incidental Harassment Authorization (IHA) is valid for 1 year from October 1, 2017 through September 30, 2018.

2. This IHA is valid only for pile driving activities associated with the Casitas Pier Fender Pile Replacement in Carpinteria, California.

3. General Conditions.

(a) A copy of this IHA must be in the possession of Venoco, its designees, and work crew personnel operating under the authority of this IHA.

(b) The species authorized for taking are summarized in Table 9.

(c) The taking, by Level B harassment only, is limited to the species listed in condition 3(b). See Table 9 for numbers of take authorized.

TABLE 9—AUTHORIZED TAKE NUMBERS

Species	Level B
Harbor seal	125
California sea lion	38
Killer whale	40

(d) The taking by injury (Level A harassment), serious injury, or death of the species listed in condition 3(b) of the Authorization or any taking of any other species of marine mammal is prohibited and may result in the modification, suspension, or revocation of this IHA, unless authorization of take by Level A harassment is listed in condition 3(b) of this Authorization.

4. Mitigation Measures.

The holder of this Authorization is required to implement the following mitigation measures.

(a) For all pile driving, Venoco shall implement a minimum shutdown zone of 51 m radius around the pile. If a marine mammal comes within or approaches the shutdown zone, such operations shall cease.

(b) Venoco shall establish monitoring locations as described below. Please also refer to Venoco's application (see *www.nmfs.noaa.gov/pr/permits/incidental/construction.htm).*

i. For all pile driving activities, a minimum of two observers shall be deployed, with one positioned on the pier and one on the bluff above the rookery.

ii. These observers shall record all observations of marine mammals, regardless of distance from the pile being driven, as well as behavior and potential behavioral reactions of the animals.

iii. All observers shall be equipped for communication of marine mammal observations amongst themselves and to other relevant personnel (*e.g.,* those necessary to effect activity delay or shutdown).

(d) Monitoring shall take place from 30 minutes prior to initiation of pile driving activity through 30 minutes post-completion of pile driving activity. In the event of a delay or shutdown of activity resulting from marine mammals in the shutdown zone, animals shall be allowed to remain in the shutdown zone (*i.e.,* must leave of their own volition) and their behavior shall be monitored and documented. Monitoring shall occur throughout the time required to drive a pile. The shutdown zone must be determined to be clear during periods of good visibility (*i.e.,* the entire shutdown zone and surrounding waters must be visible to the naked eye).

(e) If a marine mammal approaches or enters the 51m shutdown zone, all pile driving activities at that location shall be halted. If pile driving is halted or delayed due to the presence of a marine mammal, the activity may not commence or resume until either the animal has voluntarily left and been visually confirmed beyond the shutdown zone or fifteen minutes have passed without re-detection of small cetaceans and pinnipeds.

(f) Using delay and shut-down procedures, if a species for which authorization has not been granted or if a species for which authorization has been granted but the authorized takes are met, approaches or is observed within the Level B harassment zone, activities will shut down immediately and not restart until the animals have been confirmed to have left the area.

(g) Venoco shall use soft start techniques recommended by NMFS for impact pile driving. Soft start requires contractors to provide an initial set of strikes at reduced energy, followed by a thirty-second waiting period, then two subsequent reduced energy strike sets.

Soft start shall be implemented at the start of each day's impact pile driving and at any time following cessation of impact pile driving for a period of thirty minutes or longer.

(h) Pile driving shall only be conducted during daylight hours.

(i) Pile driving shall only occur during July to November months.

5. Monitoring.

The holder of this Authorization is required to conduct marine mammal monitoring during pile driving and removal activities. Marine mammal monitoring and reporting shall be conducted in accordance with the monitoring measures in the application.

(a) Venoco shall collect sighting data and behavioral responses to pile driving for marine mammal species observed in the region of activity during the period of activity. All observers shall be trained in marine mammal identification and behaviors, and shall have no other construction-related tasks while conducting monitoring.

(b) Monitoring shall be conducted by qualified observers. Trained observers shall be placed from the best vantage point(s) practicable to monitor for marine mammals and implement shutdown or delay procedures when applicable through communication with the equipment operator. Observer training must be provided prior to project start and in accordance with the monitoring measures in the application, and shall include instruction on species identification (sufficient to distinguish the species listed in 3(b)), description and categorization of observed behaviors and interpretation of behaviors that may be construed as being reactions to the specified activity, proper completion of data forms, and other basic components of biological monitoring, including tracking of observed animals or groups of animals such that repeat sound exposures may be attributed to individuals (to the extent possible).

(c) For all marine mammal monitoring, the information shall be recorded as described in the monitoring measures section of the application.

6. Reporting.

The holder of this Authorization is required to:

(a) Submit a draft report on all monitoring conducted under the IHA within 90 days of the completion of marine mammal monitoring, or 60 days prior to the issuance of any subsequent IHA for projects at the Project area, whichever comes first. A final report shall be prepared and submitted within thirty days following resolution of comments on the draft report from NMFS. This report must contain the informational elements described in the application, at minimum (see *www.nmfs.noaa.gov/pr/permits/incidental/construction.htm*), and shall also include:

i. Detailed information about any implementation of shutdowns, including the distance of animals to the pile and description of specific actions that ensued and resulting behavior of the animal, if any.

ii. Description of attempts to distinguish between the number of individual animals taken and the number of incidents of take, such as ability to track groups or individuals.

iii. An estimated total take estimate extrapolated from the number of marine mammals observed during the course of construction activities, if necessary.

(b) Reporting injured or dead marine mammals:

i. In the unanticipated event that the specified activity clearly causes the take of a marine mammal in a manner prohibited by this IHA, such as a serious injury or mortality, Venoco shall immediately cease the specified activities and report the incident to the Office of Protected Resources, NMFS, and the Alaska Regional Stranding Coordinator. The report must include the following information:

A. Time and date of the incident;

B. Description of the incident;

C. Environmental conditions (*e.g.,* wind speed and direction, Beaufort sea state, cloud cover, and visibility);

D. Description of all marine mammal observations in the 24 hours preceding the incident;

E. Species identification or description of the animal(s) involved;

F. Fate of the animal(s); and

G. Photographs or video footage of the animal(s).

Activities shall not resume until NMFS is able to review the circumstances of the prohibited take. NMFS will work with Venoco to determine what measures are necessary to minimize the likelihood of further prohibited take and ensure MMPA compliance. Venoco may not resume their activities until notified by NMFS.

ii. In the event that the Venoco discovers an injured or dead marine mammal, and the lead observer determines that the cause of the injury or death is unknown and the death is relatively recent (*e.g.,* in less than a moderate state of decomposition), Venoco shall immediately report the incident to the Office of Protected Resources, NMFS, and the West Coast Regional Stranding Coordinator.

The report must include the same information identified in 6(b)(i) of this IHA. Activities may continue while NMFS reviews the circumstances of the incident. NMFS will work with Venoco to determine whether additional mitigation measures or modifications to the activities are appropriate.

iii. In the event that Venoco discovers an injured or dead marine mammal, and the lead observer determines that the injury or death is not associated with or related to the activities authorized in the IHA (*e.g.,* previously wounded animal, carcass with moderate to advanced decomposition, scavenger damage), Venoco shall report the incident to the Office of Protected Resources, NMFS, and the West Coast Regional Stranding Coordinator, NMFS, within 24 hours of the discovery. Venoco shall provide photographs or video footage or other documentation of the stranded animal sighting to NMFS.

7. This Authorization may be modified, suspended or withdrawn if the holder fails to abide by the conditions prescribed herein, or if NMFS determines the authorized taking is having more than a negligible impact on the species or stock of affected marine mammals.

Request for Public Comments

We request comment on our analyses, the draft authorization, and any other aspect of this Notice of Proposed IHA for the proposed fender pile replacement. Please include with your comments any supporting data or literature citations to help inform our final decision on the request for MMPA authorization.

Dated: September 1, 2017.

Donna S. Wieting,

Director, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 2017–18974 Filed 9–6–17; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Deep Seabed Mining: Approval of Exploration License Extensions

AGENCY: Office for Coastal Management, National Ocean Service, National Oceanic and Atmospheric Administration (NOAA), Department of Commerce.

ACTION: Notice of extension of Deep Seabed Hard Mineral Exploration Licenses.

SUMMARY: NOAA is announcing the approval of two, five-year extensions of deep seabed hard mineral exploration licenses issued under the Deep Seabed

Hard Mineral Resource Act (DSHMRA). The decision to approve the extensions follows a determination that the Licensee has substantially complied with the licenses, their terms, conditions and restrictions, and the associated exploration plan, and a review of comments on the requested extensions. No at-sea exploration activities are authorized by these extensions without authorization and further environmental review by NOAA.

FOR FURTHER INFORMATION CONTACT: Kerry Kehoe, Office for Coastal Management (N/OCM6), NOS, NOAA, 1305 East-West Highway, Silver Spring, MD 20910; 240–533–0782; email *Kerry.Kehoe@noaa.gov*.

SUPPLEMENTARY INFORMATION: On February 21, 2017, Lockheed Martin Corporation (Licensee or ''LMC'') requested from NOAA an extension of two exploration licenses that it holds under the Deep Seabed Hard Mineral Resources Act (DSHMRA). The licenses are known as USA–1 and USA–4.

When originally issued in 1984, USA–1 and USA–4 were for a term of ten years. DSHMRA requires that requests to extend the licenses be approved every five years if the licensee has substantially complied with the licenses, their terms, conditions and restrictions, and the associated exploration plan.

On April 20, 2017, NOAA published a **Federal Register** notice (82 FR 18613) announcing the receipt of the extension request for USA–1 and USA–4, and soliciting comments on whether the Licensee had met the statutory requirement of showing substantial compliance. Comments were also solicited from the Western Pacific Fisheries Management Council (WPFMC) and the U.S. Department of State. A response to comments is included in this notice.

Upon determining that the Licensee had substantially complied with the licenses, their terms, conditions and restrictions, and the associated exploration plan, and completing environmental review of the request for extension in conformance with the requirements of the National Environmental Policy Act, NOAA approved a five-year extension of the licenses through June 2, 2022. The extension maintains the proprietary interests that the licenses confer upon the Licensee but does not authorize LMC to conduct at-sea exploration activities pursuant to the licenses. Additional authorization and further environmental review by NOAA is required before at-sea exploration may be undertaken pursuant to these licenses.

Response to Comments: As noted above, in addition to the **Federal Register** notice requesting comments on the extension request, comments were solicited from WPFMC and the U.S. Department of State. The WPFMC found that none of the fisheries under the Council's jurisdiction would be affected by the onshore activities outlined in the extension request, and had no objections to the extension. The Department of State reviewed the request and had no objections or comments.

NOAA received five responses to the **Federal Register** notice request for comments. The comments received are summarized as follows along with the responses by the NOAA Office for Coastal Management.

Comment: Deep seabed mining can result in environmental disturbance and harm to ocean ecosystems and should not be authorized.

Response: LMC is not proposing, and NOAA is not authorizing, at-sea deep seabed exploration activities at this time. Rather, NOAA is extending existing exploration licenses, which by their terms, require additional NOAA approval prior to the Licensee commencing at-sea exploration activities. Commercial recovery operations are not permitted by the USA–1 and USA–4 licenses.

Comment: Unless and until there is full accession by the United States to the 1982 United Nations Law on the Sea Convention, United States companies should be prohibited from conducting exploration activities on the international seabed.

Response: The NOAA Administrator is under an obligation established by Congress to issue an extension of these licenses to a U.S. applicant if the relevant criteria are satisfied. One of the express purposes of DSHMRA is to establish an interim program to regulate the exploration for and commercial recovery of hard mineral resources of the deep seabed by United States citizens pending the ratification by, and entering into force with respect to the United States, of what was then known as the Law of the Sea Treaty. *See* 30 U.S.C. 1401(b)(3). Under the requirements of Section 107(a) of DSHMRA, NOAA is required to approve requests to extend exploration licenses if the Licensee has substantially complied with the license, its terms, conditions and restrictions, and the exploration plan associated therewith. *See* 30 U.S.C. 1417(a). Consistent with the criteria set forth in 15 CFR 970.515(b), NOAA has determined that the Licensee has substantially complied with the licenses, their terms, conditions and restrictions, and associated exploration plan, and therefore, extension of USA–1 and USA–4 licenses may not be withheld. A DSHMRA exploration license gives the holder the exclusive right to explore a specific area, but only as against other U.S. entities. Any rights a U.S. company may have domestically are not secured internationally because U.S. companies are not able to go through the internationally recognized process at the International Seabed Authority established for Parties to the United Nations Convention on the Law of the Sea (UNCLOS).

Comment: There has not been meaningful progress by the Licensee to show that there has been substantial compliance with the licenses and exploration plan. In claiming that the exploration plan has been diligently pursued, the Licensee claims credit for work that was not conducted by the Licensee or even in the USA–1 or USA–4 license areas. The extension request should be denied.

Response: NOAA disagrees with the conclusion that the Licensee has not substantially complied with the USA–1 and USA–4 licenses and the exploration plan associated therewith.

In assessing whether the Licensee has substantially complied with the licenses, their terms, conditions and restrictions, and the associated exploration plan, the Act requires that the Licensee pursue diligently the activities described in its approved exploration plan. The licenses further specify that in order to show that it has diligently pursued the activities in its approved exploration plan, the Licensee shall submit an annual report demonstrating conformance with the schedule of activities, level of activity, and expenditures for implementing the plan. This report also focuses on the evolving ability of the Licensee to apply for a permit for commercial recovery.

In regard to satisfying the diligence requirement, the Deep Seabed Mining Regulations for Exploration Licenses state that:

> Ultimately, the diligence requirement will involve a retrospective determination by the Administrator, based on the licensee's reasonable conformance to the approved exploration plan. Such determination, however, will take into account the need for some degree of flexibility in an exploration plan. It will also include consideration of the needs and state of development of each licensee, again based on the approved exploration plan. In addition, the determination will take account of legitimate periods of time when there is no or very low expenditure, and will allow for a certain

degree of flexibility for changes encountered by the licensee in such factors as its resource knowledge and financial considerations. 15 CFR 970.602(c).

The exploration plans associated with these licenses have evolved since their original approval as part of the initial license issuance in 1984. In 1991, NOAA approved a revised exploration plan for USA–1 delaying at-sea exploration due to unfavorable conditions in the metals markets.[1] Subsequent extensions of USA–1 included the approval of the exploration plan with the delayed implementation of at-sea activities (referred to as ''Phase II Activities'' in the exploration plan). When NOAA approved the transfer of USA–4 to the Ocean Minerals Company (OMCO), the predecessor to LMC, in 1994, OMCO stated that no at-sea exploration activities were planned or needed due to data collection that preceded the enactment of DSHMRA. In 2012, NOAA approved a consolidated exploration plan for USA–1 and USA–4 with the same contingency delaying the start of Phase II at-sea exploration activities due to unfavorable market conditions. In addition, the Licensee cited the need to have security of tenure through international recognition of the licenses by the International Seabed Authority following accession by the United States to the UNCLOS, as a justification for delay of the Phase II exploration activities. Since the last extension of these exploration licenses, LMC has made substantial expenditures on activities pursuant its approved exploration plan.[2] Noteworthy activities of LMC include:

- The integration of data into a GIS system to map nodule density including the density distribution of nodules by concentrations of target metals;
- The development of environmental baseline metrics by benthic organism class;
- The development of updated economic models based on the validation of the end-to-end baseline architecture for seabed mining through the assessment of each segment of the architecture for its technical and economic feasibility;
- Benchtop metallurgical tests of extraction efficiencies for the primary commercial target metals and Rare Earth Elements found in nodules;
- Selecting the chain of custody and processing protocols that will be used for mineral content certification which will be necessary in order to obtain financing for future operations; and
- Participation in the meetings and discussions of the International Seabed Authority and various international programs pertaining to the deep seabed.

In addition, the approved exploration plan includes environmental assessment activities that must occur as a prerequisite to undertaking Phase II. These activities are necessary to further advance the understanding of the seabed environment, and the scientific methodology for its characterization. Developing this understanding is not limited to activities pertaining specifically to the areas licensed to LMC. Working collaboratively with research institutions, nation states, and exploration contractors authorized by the International Seabed Authority, LMC has contributed to collaborative efforts that have made substantial advancements in identifying organisms inhabiting the deep seabed, their abundance, distribution, diversity, and community structure. In addition to taxonomic classifications, these efforts have included genetic characterizations, which are critical to establishing biogeographical distinctions and connectivity in the deep seabed environment. This data and information, in turn, can be used for predictive habitat modelling. These contributions to the advancement of science are expected to be applicable to activities in the areas within the USA–1 and USA–4 licenses when Phase II activities are proposed there. NOAA, therefore, views these efforts as further evidence of the Licensee's diligence in pursuing the activities described in the exploration plan.

As discussed in the exploration plan associated with the requested extension of USA–1 and USA–4, the Licensee continues to find that the market conditions and the lack of international tenure under UNCLOS prevent the company from moving forward with Phase II of its exploration plan. Nonetheless, the Licensee has demonstrated a commitment to retain the licenses on a legitimate presumption that the existing contingencies will be resolved. LMC's annual reports demonstrate that preparatory work for at-sea exploration is continuing and NOAA has determined that such efforts constitute substantial compliance with the USA–1 and USA–4 licenses and associated exploration plan. As such, extension of USA–1 and USA–4 is warranted.

Comment: Due to the LMC's failure to adequately specify what activities are to occur under the individual exploration licenses, the applicant has failed to substantially comply with its license and application plan, and therefore, the extension requests should be denied.

Response: NOAA disagrees. In 2012, NOAA approved a consolidated exploration plan for USA–1 and USA–4. The Phase I preparatory activities within the approved consolidated exploration plan are described generally and appropriately apply to both areas. Given the general nature of the preparatory activities under Phase I, separate descriptions of those activities for both license areas are not necessary. As described above, the Licensee has provided sufficient justification to determine that it has substantially complied with the licenses and associated exploration plan. If the Licensee proceeds to Phase II, activity descriptions pertaining specific areas may be necessary.

Federal Domestic Assistance Catalog 11.419 Coastal Zone Management Program Administration.

Dated: August 30, 2017.

Donna Rivelli,

Associate Assistant Administrator for Management and CFO/CAO, Ocean Services and Coastal Zone Management, National Oceanic and Atmospheric Administration.

[FR Doc. 2017–18994 Filed 9–6–17; 8:45 am]

BILLING CODE 3510–08–P

[1] DSHMRA regulations provide that the Administrator may make allowance for deviation from the exploration plan for good cause, such as significantly changed market conditions (provided the request for extension is accompanied by an amended exploration plan to govern the activities of the licensee during the extended period). *See* 15 CFR 970.515(b).

[2] Although LMC has discussed some work performed in collaboration with a United Kingdom subsidiary in its annual reports, NOAA's determination of substantial compliance was based upon an assessment of LMC's contributions to these collaborative efforts.

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XD990

Atlantic Highly Migratory Species; Essential Fish Habitat

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of availability of Final Environmental Assessment.

SUMMARY: NMFS announces the availability of a Final Environmental Assessment for Amendment 10 to the 2006 Consolidated Atlantic Highly Migratory Species (HMS) Fishery Management Plan (FMP). This Final Amendment updates Atlantic HMS essential fish habitat (EFH) based on new scientific evidence or other

relevant information and following the EFH delineation methodology established in Amendment 1 to the 2006 Consolidated Atlantic HMS FMP (Amendment 1); updates and considers new habitat areas of particular concern (HAPCs) for Atlantic HMS based on new information, as warranted; minimizes to the extent practicable the adverse effects of fishing on EFH; and identifies other actions to encourage the conservation and enhancement of EFH. This action is necessary to comply with the EFH provisions of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act), and the National Standard 2 requirement that conservation and management measures be based on the best scientific information available.

DATES: The amendment was approved on August 30, 2017.

ADDRESSES: Electronic copies of Final Amendment 10 to the 2006 Consolidated HMS FMP and associated documents (including maps and shapefiles) may be obtained on the internet at: *www.nmfs.noaa.gov/sfa/hms/documents/fmp/am10/index.html.*

FOR FURTHER INFORMATION CONTACT: Jennifer Cudney or Randy Blankinship by phone at (727) 824–5399.

SUPPLEMENTARY INFORMATION:

Background

The Magnuson-Stevens Act requires that Fishery Management Plans identify and describe EFH and, to the extent practicable, minimize the adverse effects on EFH caused by fishing, and to also identify other actions to encourage the conservation and enhancement of such habitat. (16 U.S.C. 1853(a)(7)). NMFS has defined EFH as waters and substrate necessary to fish for spawning, breeding, feeding, or growth to maturity (50 CFR 600.10). Federal agencies that authorize, fund, or undertake actions, or propose to authorize, fund, or undertake actions that may adversely affect EFH must consult with NMFS. In addition, if a Federal or State action or proposed action may adversely affect EFH, NMFS must provide the action agency with recommended measures to conserve EFH (§ 600.815(a)(9)). An adverse effect is defined as an effect that reduces quality and/or quantity of EFH. This includes direct or indirect physical, chemical, or biological alterations of the waters or substrate; loss of, or injury to species and their habitat, and other ecosystem components; or reduction of the quality and/or quantity of EFH. Adverse effects may result from actions occurring within EFH or outside of EFH.

In addition to identifying EFH, NMFS or Regional Fishery Management Councils may designate HAPCs where appropriate. The purpose of a HAPC is to focus conservation efforts on localized areas within EFH that are vulnerable to degradation or are especially important ecologically for managed species. EFH regulatory guidelines encourage the Regional Fishery Management Councils and NMFS to identify HAPCs based on one or more of the following considerations (§ 600.815(a)(8)):

- The importance of the ecological function provided by the habitat;
- the extent to which the habitat is sensitive to human-induced environmental degradation;
- whether, and to what extent, development activities are, or will be, stressing the habitat type; and/or,
- the rarity of the habitat type.

In addition to identifying and describing EFH for managed fish species, NMFS or Regional Fishery Management Councils must periodically review EFH FMP components, and make revisions or amendments, as warranted, based on new scientific evidence or other relevant information (§ 600.815(a)(10)). NMFS commenced this review and solicited information from the public in a **Federal Register** notice on March 24, 2014 (79 FR 15959). The initial public review/submission period ended on May 23, 2014. The Draft Atlantic HMS EFH 5-Year Review was made available on March 5, 2015 (80 FR 11981), and the public comment period ended on April 6, 2015. The Notice of Availability for the Final Atlantic HMS EFH 5-Year Review was published on July 1, 2015 (80 FR 37598) (''5-Year Review'').

The 5-Year Review considered data and information regarding Atlantic HMS and their habitats that have become available since 2009 that were not included in EFH updates finalized in Amendment 1 to the 2006 Consolidated HMS FMP (Amendment 1) (June 1, 2010, 75 FR 30484); Final Environmental Impact Statement for Amendment 3 to the 2006 Consolidated HMS FMP (Amendment 3) (June 1, 2010, 75 FR 30484); and the interpretive rule that described EFH for roundscale spearfish (September 22, 2010, 75 FR 57698). NMFS determined that a revision of Atlantic HMS EFH was warranted, and that Amendment 10 to the Atlantic HMS FMP should be developed in order to implement these updates. NMFS determined in the 5-Year Review that the method used in Amendment 1 to delineate Atlantic HMS EFH was still the best approach. This method was therefore applied to complete analyses that support the new amendment.

On September 8, 2016, NMFS published a notice of availability of the Draft Environmental Assessment (EA) for Amendment 10 to the 2006 Consolidated Atlantic HMS FMP (81 FR 62100). Draft Amendment 10 considered all 10 components of EFH listed at § 600.815(a). For evaluation of EFH geographic boundaries, the Draft Amendment incorporated new information and data that became available to the agency following publication of the previous EFH update (Amendment 1 to the 2006 Consolidated Atlantic HMS FMP in 2009). New information and data came from a literature and data meta-analysis completed as part of the recent EFH 5-Year Review, and from data and information submitted by NOAA scientists and the public during public comment periods. These data sets included sources such as fishery-independent survey data records collected between 2009–2014, even for species where there were limited or no new EFH data found in the literature review. A complete list of data sources and information used to update Draft Amendment 10 is available in the Draft EA. Draft Amendment 10 used the same EFH delineation methodology established in Amendment 1 to update EFH boundaries. Draft Amendment 10 proposed alternatives to modify existing HAPCs or designate new HAPCs for bluefin tuna (*Thunnus thynnus*), and sandbar (*Carcharhinus plumbeus*), lemon (*Negaprion brevisorstris*), and sand tiger sharks (*Carcharias taurus*); analyzed fishing and non-fishing impacts on EFH through a consideration of environmental and management changes and new information that has become available since 2009; identified ways to minimize to the extent practicable the adverse effects of fishing activities on EFH; and identified other actions to encourage the conservation and enhancement of EFH.

NMFS sought public comment on Draft Amendment 10 through December 22, 2016. Additionally, NMFS conducted two public hearing conference calls/webinars for interested members of the public to submit verbal comments (81 FR 71076). Furthermore, NMFS presented information on Draft Amendment 10 to the Caribbean, Gulf of Mexico, South Atlantic, Mid-Atlantic, and New England Fishery Management Councils. NMFS received 26 unique written comments on the Draft Amendment, and received a number of additional comments and/or clarifying questions at the Atlantic HMS Advisory Panel meeting and at Council meetings.

NMFS received multiple comments in support of the proposed updates to EFH

and for modification and/or creation of new HAPCs. Among other things, NMFS received comments and suggestions on the following: suggestions to improve EFH analysis methodology; recommendations against the establishment of EFH boundaries for dusky sharks north of a New England management demarcation line; modifications to proposed EFH updates for multiple shark species based on research submitted by commenters; modifications on the proposed extent of the bluefin tuna HAPC; and requests for inclusion of additional information in the EA.

The Final Amendment modifies EFH for Atlantic HMS (Preferred Alternative 2). When preparing Draft Amendment 10, NMFS identified several new datasets and completed a comprehensive analysis of agency datasets that included the addition of six years of new data (2009–2014). Additional relevant datasets were not available in time for inclusion in Draft Amendment 10 but have been included in the Final Amendment 10. These datasets contained Level 1 point data from the Billfish Foundation, the Southeast Area Monitoring and Assessment Program (SEAMAP) icthyoplankton trawl survey, the SEAMAP Acoustic/Small Pelagics survey, the SEAMAP Shrimp/Bottomfish survey, and the North Carolina Department of Natural Resources inshore gillnet/trawl survey data. There was additional pelagic longline observer data for white marlin was available following publication of Draft Amendment 10.

Given the large number of new data points that became available during and following the public comment period for Draft Amendment 10, NMFS determined that for Final Amendment 10 it was appropriate to rerun models for multiple species. For example, the inclusion of SEAMAP Acoustic/Small Pelagic and Shrimp/Bottomfish surveys in analyses rerun for Final Amendment 10 added 1,533 data points for angel shark in the Gulf of Mexico. Inclusion of these new data points into the Kernal Density Estimation/95 Percent Volume Contour models resulted in minor modifications to the EFH boundary updates that were previously presented in Draft Amendment 10.

The EFH model output generated for Final Amendment 10 was then subjected to robust scientific peer review and quality assurance/quality control (QA/QC) to ensure that updates to EFH boundaries were sound. The use of robust scientific peer review and QA/QC after models are developed and EFH boundaries are derived from the 95 percent probability boundary is consistent with provisions of the Magnuson-Stevens Act section 305(b)(1)(A). For example, Councils or NMFS may describe, identify, and protect habitats of managed species that are beyond the EEZ; however, such habitat may not be considered EFH for the purposes of the requirements under sections 303(a)(7) and 305(b) of the Magnuson-Stevens Act (§ 600.805(a)(2)). Given these aspects of the EFH regulations, the 95 percent probability boundary derived from models is clipped, or made to match, the seaward EEZ boundary, depending on where the overlap occurred. Based on the recommendations of NMFS scientists in the Northeast and Southeast Fisheries Science Centers, and in cases where it made biological sense, NMFS clipped polygons to specified features or areas (*e.g.,* bathymetric (depth) contours (isobaths), the continental shelf break, Chesapeake Bay, shorelines). This reflects the known information about these species' habitats. In Final Amendment 10, NMFS provides additional clarifications on the process for QA/QC and scientific peer review considerations of model output (see Appendix F of the EA, see **ADDRESSES** above for instructions on how to view/locate the Final EA). Similarly, NMFS also added a more recently updated definition of shark nursery areas in Final Amendment 10 based on the discussion presented in Heupel *et al.* (2007) to assist in identifying habitats that were considered necessary for neonate/YOY and juvenile life stages of sharks (EFH definition) and/or may have been rare or played a particularly important ecological role (per HAPC criteria) (see Comments 15 and 16 below; see Appendix F of the EA, see **ADDRESSES** above for instructions on how to view/locate the Final EA).

Final Amendment 10 modifies the HAPC for bluefin tuna (Preferred Alternative 3b) and sandbar shark (Preferred Alternative 4b) from that established in Amendment 1 to the 2006 Consolidated HMS FMP. New literature published by Muhling *et al.* (2010) suggests moderate (20–40 percent) probabilities of collecting larvae in areas of the eastern Gulf of Mexico that are not completely covered by the existing HAPC. Based on this information, Final Amendment 10 extends the HAPC for the Spawning, Eggs, and Larval life stage in the Gulf of Mexico from its current boundary of 86° W. longitude (long.), eastward to 82° W. long. The HAPC extends from the 100-meter isobath to the EEZ, and is based on the distribution of available data and recommendations from the SEFSC during QA/QC review. Final Amendment 10 also adjusts the neonate/YOY sandbar shark HAPC established in the 1999 FMP for Atlantic Tunas, Swordfish, and Sharks such that it is consistent with updates to EFH (Preferred Alternative 2b) in coastal North Carolina, Chesapeake Bay, and Delaware Bay for this life stage. The sandbar shark EFH changes include incorporation of additional area in Delaware Bay and Chesapeake Bay to reflect updated EFH designations, and adjustment of the HAPC around the Outer Banks of North Carolina to remove areas in Pamlico Sound. The HAPC for sandbar shark designated in 1999 is outside the geographic boundaries of the most recent EFH designation (Amendment 1) for sandbar shark. This alternative would therefore adjust the boundaries of the HAPC so that it is contained within the geographic boundaries of the sandbar shark EFH.

Amendment 10 also creates new HAPCs for juvenile and adult lemon sharks (Preferred Alternative 5b) off southeastern Florida between Cape Canaveral and Jupiter inlet and for sand tiger shark (Preferred Alternative 6b) in Delaware Bay (all life stages) and the Plymouth, Kingston, Duxbury (PKD) Bay system in coastal Massachusetts (neonate/YOY and juveniles). These HAPCs were proposed in the Draft Amendment 10. The new HAPC for juvenile and adult lemon sharks is based upon tagging studies and public comments received that expressed concern about protection of habitat in locations where aggregations of lemon sharks are known to occur. The two new sand tiger shark HAPCs are based on data collected by the NEFSC, Haulsee *et al.* (2014 and 2016), and Kilfoil *et al.* (2014) indicating that Delaware Bay constitutes important habitat for sand tiger sharks.

Response to Comments

NMFS received 26 unique written comments from fishermen, council members, states, environmental groups, academia and scientists, and other interested parties on the Draft EA during the public comment period. Comments included submissions of 17 form letters that were identical or similar to comments provided by organizations. We also received comments from fishermen, states, and other interested parties at Council meetings, Atlantic HMS Advisory Panel meetings, and at two public conference calls/webinars. All written comments can be found at *http://www.regulations.gov.*

Comments are summarized below by major topic together with NMFS' responses.

1. Draft EA Content (Comments 1–2),
2. EFH Methodology (Comments 3–5),
3. Bluefin Tuna EFH Boundary Designations (Comments 6–9),
4. Bluefin Tuna HAPC Alternative (Comments 10–11),
5. Shark EFH Boundary Designations (Comments 12–16),
6. Sandbar Shark HAPC Alternative (Comment 17),
7. Lemon Shark HAPC Alternative (Comments 18–20),
8. Sand Tiger Shark HAPC Alternative (Comments 21–22),
9. Other Comments (Comment 23), and
10. Research and Restoration (Comments 24–26).

Comments by Subject

1. Draft EA Content

Comment 1: NMFS received several comments on the content of the Draft EA, requesting information confirming the importance of habitat associations, seasonality of peak EFH utilization, and a rationale for the changes in EFH made between Amendment 1 and Draft Amendment 10.

Response: Habitat association and seasonality information, based on available scientific literature, have been included in both the Life History reviews and EFH Text Descriptions for Atlantic HMS species (see Chapter 6 of the Final EA). If appropriate, NMFS may develop products, such as GIS maps depicting peak seasonal use of EFH by region in the future. A rationale for the changes in EFH between Amendment 1 and those established by Final Amendment 10 is included for each species, where applicable, following EFH Text Descriptions in Chapter 6 of the EA.

Comment 2: NMFS should provide online access to the shapefiles and maps of non-preferred alternatives.

Response: Shapefiles and maps depicting preferred alternative EFH and HAPC boundaries, and maps showing the extent of non-preferred HAPC alternatives, may be downloaded at the following Web site: *http://www.nmfs.noaa.gov/sfa/hms/documents/fmp/am10/index.html.* NMFS did not make available shapefiles or maps of the non-preferred EFH boundary alternative (*i.e.,* status quo) on the Amendment 10 Web site to reduce confusion between what EFH designations are currently in effect and what is being considered in this amendment. Shapefiles representing the previous EFH revision exercise, which reflect the status quo—no action alternative in Draft Amendment 10, are available on the Web site for Amendment 1 to the 2006 Consolidated Atlantic HMS FMP.

2. EFH Methodology

Comment 3: Preferred Alternative 2, which updates all Atlantic HMS EFH designations using the methodology established under Amendment 1, is appropriate.

Response: NMFS concurs that it is appropriate to update Atlantic HMS EFH using new data collected since 2009 and the methodology established under Amendment 1. Review and updates of Atlantic HMS EFH are consistent with the EFH provisions of the Magnuson-Stevens Act and National Standard 2 (*i.e.,* that conservation and management measures be based on the best scientific information available). During the 5-Year Review process, NMFS evaluated 11 different approaches used to assess EFH by the Agency or published in the literature, and determined that the methodology established under Amendment 1 remained the best approach to update Atlantic HMS EFH.

Comment 4: NMFS should consider designations of EFH by depth (surface, middle, and bottom) where appropriate and if there is scientific information that supports such a designation.

Response: EFH text descriptions (see Chapter 6 of the EA) include references to depth where appropriate based on best available scientific information. EFH delineation in other sections of the water column could be useful in Habitat Consultations; however, information describing vertical distribution and habitat utilization in the water column are not available for all Atlantic HMS species in the literature. While NMFS did not specifically request vertical depth data from the public during the 5-Year Review and Draft Amendment comment periods, NMFS generally requested information on relevant EFH data and ideas for delineation methods and no data on vertical depth distribution data were submitted. NMFS may explore new models and approaches in the future, and at that time, could evaluate the feasibility of designating EFH vertically through the water column for Atlantic HMS.

Comment 5: The methods used to delineate EFH may bias results. Sampling intensity can affect the observed density, particularly for larvae, as well as for determining the distribution of other species, which impacts EFH designations. In those cases, EFH becomes a function of data availability, not a function of animal behavior.

Response: The current approach to designating EFH uses an unweighted model that delineates contour intervals around data points; therefore, the models are influenced by sampling intensity, the spatial distribution of data, and data availability. Several Atlantic HMS species are data-poor, and the available datasets may provide data points that are clustered in space or time based on the extent of sampling. NMFS may explore alternative models and approaches in the future, if appropriate, that better account for the spatial distribution of available data and other biases that may influence results.

3. Bluefin Tuna EFH Boundary Designations

Comment 6: NMFS received comments both supporting and not supporting the inclusion of the Slope Sea into the bluefin tuna EFH for the Spawning, Eggs, and Larval life stage. Some commenters supported the inclusion of Slope Sea spawning areas into EFH designations for this life stage because this reflects the best available scientific information. Other commenters voiced opposition to including EFH for bluefin tuna larvae areas outside the Gulf of Mexico, stating that the designation of EFH cannot be justified based on current scientific knowledge. Specifically, commenters had concerns about limited sample sizes in space and time across the Slope Sea. As discussed in Comment 24 below, commenters asked that NMFS encourage additional research on the Slope Sea.

Response: During preparation of Draft Amendment 10, NMFS identified relevant research by Richardson *et al.* (2016) that included 67 data points where larval bluefin tuna were collected in the Slope Sea. Those data points were used as information input for the model. Despite the small sample size associated with Richardson *et al.* 2016, the number and distribution of data points were sufficient to meet or exceed model thresholds for inclusion in the 95 percent volume contour. Since model results included the Slope Sea areas as part of the EFH for the bluefin tuna Spawning, Eggs, and Larval life stage, NMFS is retaining the Slope Sea area as EFH but is also encouraging additional research on these habitats (see Chapter 7 of the EA) and Comment 24 below.

Comment 7: Several commenters expressed concerns about management implications of identifying Spawning, Eggs, and Larval EFH in areas outside of the Gulf of Mexico given that current ICCAT management recommendations

stipulate that the United States should not permit directed fishing on bluefin tuna in spawning areas.

Response: The relative importance of the Slope Sea bluefin tuna spawning, eggs and larval EFH to the stock is unclear at this time, however the EFH model results included the Slope Sea as part of the EFH for the bluefin tuna Spawning, Eggs, and Larval life stage because the distribution of data points met the model's threshold for inclusion in the 95 percent volume contour. ICCAT's Standing Committee on Research and Statistics (SCRS) has noted that hypotheses concerning the Slope Sea's importance as a spawning area still need to be tested (ICCAT 2016, *http://iccat.int/Documents/Meetings/Docs/2016_BFT_DATA_PREP_ENG.pdf*). Furthermore, there are a number of concerns about the conclusions drawn by the Richardson *et al.* (2016) paper concerning sample size, larval data corrections, variance in data, and conclusions about early maturation (*e.g.,* Walter *et al.* 2016). The SCRS has recommended additional research be conducted to address these concerns and, at this time, the Slope Sea has not been recognized by ICCAT as western Atlantic spawning grounds. As additional information on the relative importance of the Slope Sea and if recognition as spawning grounds becomes available, NMFS will consider that information in developing or advocating for appropriate domestic and international measures.

Comment 8: In concert with accepting Preferred Alternative 3b (Expand HAPC eastward), NMFS should, at a minimum, expand adult bluefin EFH to include the entire HAPC boundary.

Response: Model results did not include the entire Gulf of Mexico into the EFH boundaries of adult bluefin tuna. Expansion of adult bluefin EFH eastward in the Gulf of Mexico to encompass all areas of the bluefin spawning, eggs, and larval life stage HAPC, would add only an additional 25 locations (+ ~2 percent of data points in the Gulf of Mexico). PSAT tagging data suggest that adult bluefin tuna migrate through this area, but do not utilize it as heavily as other areas of the central and western Gulf of Mexico (*e.g.,* Wilson *et al.* 2015; see Figure 6.1, Section 6.2.3 of the Amendment 10 EA, see **ADDRESSES** above for instructions on how to view/locate the Final EA). As previously mentioned, the intent of EFH is not to delineate all areas where the species is known to occur, but rather the areas that are necessary for spawning, breeding, feeding, or growth to maturity. Therefore, NMFS has not modified the EFH designation for adult bluefin EFH to include the entire eastern GOM.

Comment 9: NMFS should incorporate the migratory corridor to the Gulf of Mexico as adult EFH, rather than stopping abruptly off the coast of North Carolina, most importantly including the waters around the Charleston Bump where tagging studies have shown adult bluefin feed (Wilson *et al.* 2015).

Response: Examination of PSAT tagging data (see Figure 6.1, Section 6.2.3) implies that tagged bluefin tuna may heavily use pelagic habitats ranging from coastal North Carolina to areas north and east of the Bahamas. Data available for EFH analyses also indicate that pelagic habitats of the Blake Plateau are necessary habitat for adult Bluefin tuna. Therefore, based on further review of available data, NMFS adjusted the boundaries of adult bluefin EFH to include some of the areas recommended by the commenter. However, it is important to note that EFH designations are designed to focus attention on those habitats necessary for feeding, breeding, spawning, or growth to maturity. Migration routes, while important in their own right, are not within the scope of EFH as defined under NMFS' regulations.

4. Bluefin Tuna HAPC Alternative

Comment 10: NMFS should accept Preferred Alternative 3b to expand the bluefin tuna HAPC in the Gulf of Mexico, as it meets all four considerations for a HAPC pursuant to § 600.815(a)(8).

Response: NMFS agrees that Preferred Alternative 3b is warranted based on the application of the HAPC criteria to the current body of scientific literature. Therefore, NMFS has expanded the current HAPC for the bluefin tuna Spawning, Eggs, and Larval life stage as provided under this alternative.

Comment 11: NMFS should designate or include the Slope Sea, newly discovered bluefin tuna spawning habitat, as a HAPC.

Response: A HAPC designation for a particular habitat must be based on one of four criteria: The importance of the ecological function provided by the habitat; the extent of sensitivity to human induced environmental degradation; whether, and to what extent, development activities are or will be stressing the habitat type; and the rarity of the habitat type. Whether the Slope Sea satisfies these criteria for bluefin tuna is unknown and research to better understand the role of this area as a spawning ground and other habitats for the species continue. Given the limited sample size to date, it is difficult to determine the importance of the ecological function provided by the Slope Sea for the western Atlantic bluefin stock. Additional sampling and research are also needed in order to effectively evaluate all HAPC criteria. The number of data points are fairly small and are limited temporally; therefore, it is difficult to delineate boundaries for an effective HAPC at this time.

5. Shark EFH Boundary Designations

Comment 12: Dusky sharks do not occur in New England waters. NMFS should establish a north/south demarcation line off New England where appropriate measures to reduce dusky shark mortality and protect dusky shark EFH could be implemented in areas south of the demarcation line. Eighteen copies of a form letter suggested that dusky shark EFH should be moved to waters south of New England and/or Montauk, NY. Other commenters supported designation south of an area known as ''The Dump'' (approximately 75 km east and slightly south of Montauk), or designation south of a line extending eastward from Shinnecock, NY (40°50′25″ N. latitude).

Response: Most of the data points collected for the EFH modeling exercise were located south of the Gulf of Maine, and therefore NMFS agrees it was not appropriate to include Gulf of Maine habitats in the proposed updates to EFH boundaries that were included in Draft Amendment 10. The available data and historical information from the scientific literature indicate that dusky sharks do occur in southern New England waters. The dusky shark EFH boundaries included in Draft Amendment 10, and the data used in the EFH models considered in Draft Amendment 10, reflect data points that are located offshore of southern New England (*i.e.,* south of the southern coast of Long Island, Nantucket, and Martha's Vineyard) and along the southern edge of Georges Bank and the continental shelf. However, the proposed EFH boundaries in Draft Amendment 10 for dusky sharks also included some inshore areas in Narragansett Bay, near coastal Rhode Island, and areas adjacent to southeastern Massachusetts. In consideration of public comments received and review of life history information and distribution data on dusky sharks, NMFS determined that minor adjustments to EFH boundary designations to remove some nearshore coastal areas of southern New England were appropriate. For example, model output published in Draft Amendment 10 as EFH for dusky sharks included Narragansett Bay and parts of Buzzards Bay, however, the salinity of these areas

is generally considered to be too low for dusky sharks (C. McCandless, pers. comm, NOAA NEFSC). Parts of Vineyard Sound, Rhode Island Sound, Block Island Sound, and Nantucket Sound were also included, likely as a result of their proximity to a larger cluster of data points located further south and offshore. Generally, dusky sharks are collected in scientific surveys further offshore (C. McCandless, pers. comm, NOAA NEFSC). Therefore, in response to public comment and based on further review of the best available biological information, the EFH boundary designations for dusky shark have been revised to exclude these coastal areas.

Commenters also advocated for the use of a north/south demarcation line to be used for management measures that would reduce dusky shark mortality and to implement EFH. Under the current modeling method, EFH boundaries are based on the distribution and availability of point data, which provide empirical evidence that the habitat is important for feeding, breeding, spawning or growth to maturity. While landmarks or features can be used as representations to describe the extent of current EFH, they must take into account the specific locations of a species' habitat. Available data and the models developed using the current EFH delineation methodology suggested that some areas north and east of Montauk and Shinnecock NY or ''the Dump'' should be included within the EFH Boundaries. NMFS has described these locations within the EA.

Comment 13: NMFS should adjust its EFH boundaries to encompass highly suitable habitats for great hammerhead and tiger sharks as predicted from habitat suitability modeling. The updates to EFH boundaries proposed by NMFS in Draft Amendment 10 are consistent with habitat suitability modeling for bull sharks.

Response: NMFS compared the areas of high habitat suitability to data available for EFH analyses and found that, in general, the adjustment of EFH based on habitat suitability models is inconsistent with the approach used by NMFS in Amendment 10 because certain areas that were deemed highly suitable by the commenter contained little to no empirical point data. Rather the identification of highly suitable habitat was based on the confluence of certain environmental characteristics that was predicted to create a more favorable habitat for that species. The intent of EFH is not to delineate all areas where the species is known to occur, but rather areas that are necessary to a species spawning, breeding, feeding, and growth to maturity. The current methodology assumes a relationship between the presence and density of points and the presence of EFH, and does not at this time incorporate a predictive aspect based on environmental variables. NMFS may explore alternative models and approaches for the next revision of EFH and, at that time, would evaluate the feasibility of incorporating habitat suitability modeling approaches (such as those put forward by this commenter) into the delineation of EFH, if appropriate.

Comment 14: Maps and data pertaining to drumline surveys conducted between 2008–2015 by the University of Miami Shark Research and Conservation Lab suggest that areas with high catch rates in northern Biscayne Bay (between Elliot Key and Key Biscayne) should have been included in updates to EFH for blacktip sharks. NMFS should expand the EFH proposed in Draft Amendment 10 to include these areas. Areas with highest nurse, lemon, and sandbar shark CPUE are already contained within the proposed updates to EFH boundaries. NMFS should finalize the EFH boundary adjustments included in Draft Amendment 10 for these species.

Response: NMFS agrees that areas identified for blacktip, nurse, lemon, and sandbar shark EFH off South Florida are necessary habitats for these species, and it is therefore appropriate to include these areas in the EFH boundaries that would be finalized under Amendment 10. Blacktip sharks are managed regionally, with a demarcation line separating the Gulf of Mexico and Atlantic shark stocks at 25°20.4′ N. latitude. In response to public comment and in consultation with the NEFSC and SEFSC, NMFS determined that adjustments to the EFH boundaries for the Atlantic stock of blacktip sharks were appropriate and, in Final Amendment 10, extended the southern extent of juvenile and adult EFH boundaries southward along the Florida east coast to 25°20.4′ N. latitude (which includes northern Biscayne Bay). Similarly, NMFS determined that the Gulf of Mexico stock boundary needed to be moved south along the Florida coast to terminate at the 25°20.4′ N. latitude stock demarcation line in order to be consistent with the management extent for this stock (it previously extended north of this line).

Comment 15: NMFS should adjust EFH boundaries to include portions of Pamlico Sound, Core Sound, Back Sound, and other inshore coastal waters for juvenile and adult blacktip sharks, neonate/YOY and juvenile bull sharks, neonate/YOY and juvenile sandbar sharks, juvenile and adult blacknose sharks, neonate/YOY and adult Atlantic sharpnose sharks, and all life stages of smooth dogfish based on data from the annual North Carolina Division of Marine Fisheries (NC DMF) gillnet and longline survey and from research on delineation of coastal shark habitat within coastal North Carolina waters using acoustic telemetry, fishery-independent surveys, and local ecological knowledge (Bangley 2016).

Response: The information and data referenced in this comment, NC DMF gillnet and longline survey data and data from Bangley 2016, provided NMFS an opportunity to evaluate Atlantic HMS nursery habitat utilization in inshore and coastal North Carolina waters. As noted in Heupel *et al.* (2007), ''*the use of the term 'shark nursery area' by a wide array of scientists, resource managers and conservationists appears to be inconsistent and lacks proper scientific analysis and justification. In some cases regions are labeled shark nursery areas simply because of the presence of a few juvenile sharks . . . [which] threatens to undermine the importance of protecting EFH by potentially identifying all coastal waters as shark nursery areas.*'' Due to inconsistent use of the term ''nursery area'' across the scientific community and concerns identified in Heupel *et al.* 2007), NMFS now prefers to apply the definitions laid out in Heupel *et al.* 2007 to identify habitats in which: (1) Sharks are more commonly encountered in these areas versus other areas; (2) sharks remain or return to these areas for extended periods of time (*i.e.,* site fidelity that is greater than mean fidelity to all sites across years); and (3) the habitat is repeatedly used across all years, whereas others are not. The annual mean number of neonate/YOY bull, sandbar, and blacktip sharks was small (*e.g.,* approximately 5 bull and sandbar sharks per year, 9 blacktip sharks per year) and not consistent from year to year. Additionally, the survey with the longest timespan, NC DMF, had no supporting data for these species in Back and Core Sounds.

Although some acoustic data are available (n = 1 blacktip and 3 blacknose sharks), a bigger sample size would be needed to establish residency patterns of individuals and demonstrate site fidelity through time for these species in inshore North Carolina waters. The NC DMF dataset also contained only one blacknose shark, and therefore does not provide a scientifically sufficient means to analyze habitat utilization and potential EFH. NMFS had very few data points for

juvenile and adult blacktip sharks (n = 23 out of 6,383) and adult blacknose sharks (n = 2) in Pamlico, Core, and Back Sound.

A larger number of smoothhound and Atlantic sharpnose shark records were noted in areas of Pamlico Sound closer to the inlets of the Outer Banks, and the model results supported keeping EFH in these areas as proposed. However, the NC DMF dataset did not include any Atlantic sharpnose or smoothhound shark data points for Core Sound or Back Sound, and the number of data points from the Bangley (2016) dataset in these locations were also small (n = 33 Atlantic sharpnose sharks and 10 smooth dogfish) so these are excluded for these species and life stages. Many of the habitats identified near inlets as potentially important may reflect a temporary condition that is tolerable to these animals as they follow schools of baitfish to feed; however, these conditions are temporary as the tides change. Bangley (2016) analyzes data with respect to distance to inlets and salinity, however, it does not consider tidal influence on the creation of temporary habitat through the presence of prey schools responding to tidal fluctuations. Therefore, NMFS encourages additional research to further evaluate these areas as nursery habitat per the definitions outlined in Heupel *et al.* 2007 (see Section 7.1.6 of the Final Environmental Asessement, which discusses HMS Research Needs), but has not designated Pamlico, Core, and Back Sounds as EFH for blacktip, sandbar, and bull sharks; or Core and Back Sounds as EFH for Atlantic sharpnose sharks and smooth dogfish. NMFS may evaluate inshore areas of coastal North Carolina for inclusion in these species' EFH boundaries in the future if more data become available.

Comment 16: Neonate/YOY and juvenile sandbar sharks are among the most common coastal sharks captured in NC DMF gillnet and longline surveys conducted in the spring and fall. NMFS should adjust EFH boundaries for sandbar shark to include portions of Pamlico Sound based on a dissertation (Bangley 2016) that suggested coastal North Carolina habitats, including Pamlico Sound, may be primary and secondary nursery habitats for multiple shark species, including sandbar shark.

Response: Using NC DMF gillnet and longline survey data,and the data presented in Bangley (2016), NMFS assessed whether the information provided by the commenter supported inclusion of these habitats into neonate/YOY EFH boundaries as nursery areas which are necessary for feeding and growth to maturity. Due to inconsistent use of the term ''nursery area'' across the scientific community and the contention of Heupel *et al.* (2007) that ''*the occurrence of juvenile sharks in an area is insufficient evidence to proclaim it a nursery*'', NMFS now prefers to apply the definitions laid out in Heupel *et al* 2007 to identify habitats in which (1) sharks are more commonly encountered in these areas versus other areas; (2) sharks remain or return to these areas for extended periods of time (*i.e.,* site fidelity that is greater than mean fidelity to all sites across years); and (3) the habitat is repeatedly used across all years, whereas others are not. NC DMF data indicate that, while these species are caught consistently between years in Pamlico Sound, the numbers of data points tend to be low compared to areas seaward of the Outer Banks. Additional research is needed to indicate an elevated degree of dependency, site fidelity, and utilization of these habitats compared to nearshore habitats that are seaward of the Outer Banks before they should be included within EFH boundaries per the rationale that they are ''nursery areas''.

6. Sandbar HAPC Alternative

Comment 17: NMFS should implement Alternative 4a (No Action Alternative) in concert with recommendations for Alternative 2 (see comments 15 and 16 above), which would update existing EFH designations and include an expansion of sandbar neonate/YOY and juvenile EFH into estuarine waters of North Carolina to protect nursery habitats.

Response: As discussed in Comments 15 and 16, there was a small number of data points available on neonate/YOY and juvenile sandbar sharks from the datasets and information referenced in this public comment (NC DMF inshore gillnet and trawl data, and Bangley 2016). NOAA scientists from the SEFSC and NEFSC recommended that Pamlico Sound not be included in neonate/YOY EFH or that a HAPC for this life stage be retained in inshore North Carolina waters because insufficient data was available to compare the spatial and temporal utilization of these habitats with adjacent habitats, which are critical aspects of athe the nursery area definition outlined in Heupel *et al.* 2007. Therefore, updates to EFH finalized in this Amendment do not include inshore coastal waters of North Carolina (*i.e.,* Pamlico Sound). The commenter recommends accepting the No Action Alternative, which would retain HAPC boundaries in Pamlico Sound. Since a HAPC must be nested within updated EFH, and the updated EFH for sandbar shark does not include Pamlico Sound, it would be inconsistent with NMFS' regulations that implement the EFH provisions of the Magnuson-Stevens Act to retain the current boundaries of the Sandbar HAPC. NMFS will continue to evaluate inshore areas of Pamlico Sound for EFH or HAPC inclusion as more data becomes available.

7. Lemon Shark HAPC Alternative

Comment 18: NMFS received three comments (including one from the Florida Fish and Wildlife Conservation Commission) in support of Preferred Alternative 5b, the proposed lemon shark HAPC that spans from Cape Canaveral to Jupiter Inlet. Commenters indicated that the HAPC is needed and well placed, and could provide additional protection for Southeastern Florida lemon shark aggregations. Other commenters indicate that this alternative is most appropriate based on available tagging and genetic research that identifies the importance of aggregation sites and migration pathways contained within the proposed HAPC.

Response: NMFS agrees that the proposed HAPC is the most appropriate alternative given independent research conducted by multiple institutions that confirm the areas are rare aggregation sites of unique importance (*i.e.,* thermal refugia, nursery grounds for juveniles, resting/feeding grounds for adults) for lemon shark populations off the southeastern United States. Tagging and genetic studies also support the inclusion of habitats in between the two aggregation sites into the HAPC. These areas are adjacent to a region with extremely high population density, and are thus subject to potential environmental degradation and development activities.

Comment 19: NMFS should not create a HAPC for lemon sharks. NMFS should apply the HAPC criteria strictly for this area, and not designate a HAPC as a response to pressure the agency has received to curtail fishing activity in the area.

Response: As part of EFH designations for lemon sharks, NMFS considered whether those areas should include HAPCs based on the criteria for HAPC specification under 600.815(a): The importance of the ecological function provided by the habitat, the extent that the habitat is sensitive to human induced environmental degradation, the extent that development activities are or could be stressing the habitat type, and the rarity of the habitat type. A HAPC was included in the Final Amendment based on these analyses, as triggered by the

identification of scientific papers (*e.g.,* Reyier *et al.* 2012; Kessel *et al.* 2014, Reyier *et al.* 2014) that indicated there was scientific evidence that habitats and areas had an important ecological function, were adjacent to highly populated areas and therefore susceptible to human use or degradation, and were rare aggregation sites for this population of lemon sharks.

Comment 20: One commenter expressed concern that a HAPC designation for lemon sharks would open the door for new regulations to be implemented in the area.

Response: The purpose of identifying HAPCs is to focus conservation efforts on localized areas within EFH that are vulnerable to degradation or are especially important ecologically for managed fish. HAPCs can also be used to target areas for area-based research. HAPCs are not required to have any specific management measures. However, such measures may need to be considered to achieve the stated goals and objectives of the HAPC. Public comment reflected concern for the status of populations of lemon sharks off Southwest Florida. Identification of a HAPC, or variations in abundance or even a change in stock status of a species for which a HAPC is identified does not, by itself, trigger an EFH rulemaking. Rather, an EFH rulemaking is triggered by a verifiable adverse effect on habitat from a fishing or non-fishing activity. The EFH provisions of the Magnuson-Stevens Act specify that FMPs must minimize to the extent practicable adverse effects of fishing on EFH, and that Councils (and NMFS) must act to prevent, mitigate, or minimize any adverse effects from fishing, to the extent practicable, if there is evidence that a fishing activity adversely affects EFH in a manner that is more than minimal and not temporary in nature (600.815(a)(2)(ii). If sufficient evidence became available to suggest that fishing activity adversely affects EFH in a manner that is more than minimal and not temporary in nature, NMFS would provide notification to the public of any regulations associated with EFH or the HAPCs in a future rulemaking.

8. Sand Tiger HAPC Alternative

Comment 21: NMFS should implement Preferred Alternative 6b to update EFH, as Delaware Bay and the PKD bay system have been found to be important habitats for sand tiger sharks.

Response: Data collected by the NEFSC via the Cooperative Atlantic States Shark Pupping and Nursery (COASTSPAN) survey and scientific research published by Haulsee *et al.* (2014 and 2016), Kilfoil *et al.* (2014), Kneebone *et al.* (2012 and 2014) suggest that the habitats meet several HAPC criteria (*e.g.,* ecological function provided by the habitat—discrete and relatively rare nursery areas and adult aggregation sites, published concerns about development and environmental degradation). NMFS therefore agrees that it is appropriate to establish HAPCs in Delaware Bay and the PKD bay system.

Comment 22: NMFS should consider a HAPC designation in the western end of New York's Great South Bay since it has been discovered to be an important nursery ground for sand tiger sharks. Tagging studies show strong juvenile interannual site fidelity, that the area is only used by juveniles, and the area is located in a heavily populated area of New York that is susceptible to human induced habitat degradation.

Response: NMFS was unable to obtain data associated with a potential nursery in Great South Bay, NY. One commenter, who was not a data author, provided a point of contact associated with the New York Aquarium that have initiated research on sand tiger sharks in Great South Bay and several newspaper and gray literature articles. The data author submitted a comment with recommendations, but did not provide data associated with the comment. NMFS staff attempted to communicate with the data author multiple times by phone and email between October 2016 and January 2017, however the data author/commenter ultimately did not provide information or data to NMFS that would allow NMFS to further evaluate the assertion that Great South Bay habitat met the HAPC criteria. Therefore, NMFS has not delineated a HAPC for sand tiger sharks in this area at this time.

9. Other Comments

Comment 23: There is a white shark nursery off Long Island. NMFS should protect young white sharks in this area.

Response: In Draft Amendment 10, NMFS considered a potential HAPC in the northern Mid-Atlantic and off southern New England for neonate/YOY and juvenile white sharks. In particular, Curtis *et al.* (2014) noted that a large number of YOY shark observations occurred between Great Bay, NJ and Shinnecock Inlet, NY. Depth and temperature associations were provided in this paper for YOY and juveniles; however, this report alone was not enough to support any one HAPC criterion. For this final amendment, NMFS examined additional data and literature that might support HAPC designation; however, the findings were insufficient to identify a discrete area that meets the criteria for a HAPC. The area identified by the commenter is already included as part of the EFH for neonate/YOY white sharks; therefore, impacts on EFH would be considered as part of Habitat Consultations in the future.

10. Research and Restoration

Comment 24: Additional research is needed to evaluate the Slope Sea as a potential bluefin tuna spawning site, the parentage of bluefin tuna larvae on the Slope Sea, and the relative magnitude of spawning in this area compared to other known spawning grounds.

Response: NMFS has included these as high priority items in the Research Needs chapter of Final Amendment 10. Additionally, in June of 2017, the Northeast Fisheries Science Center sponsored a cruise on NOAA vessel *Gordon Gunter* to conduct research on Slope Sea larval fish populations (specifically, bluefin tuna).

Comment 25: Ongoing monitoring is prudent to ensure that there is no change in the distribution of dusky sharks or other species due to climatic shift.

Response: In 2014, NMFS published the Atlantic HMS Management-Based Research Needs and Priorities document. The document contains a list of near- and long-term research needs and priorities that can be used by individuals and groups interested in Atlantic HMS to identify key research needs, improve management, reduce duplication, prioritize limited funding, and form a potential basis for future funding.

The priorities range from biological/ecological needs to socioeconomic needs and the document can be found at: *http://www.nmfs.noaa.gov/sfa/hms/documents/hms_research_priorities_2014.pdf.* The Research Needs and Priorities document, along with feedback gathered on the Final Atlantic HMS EFH 5-Year Review and Draft Amendment 10 from the public and the scientific research community was used to develop a list of research priorities that would support future HMS EFH designation and protection in Chapter 7 of the Amendment 10 Final EA. These research priorities are further characterized as high, medium, or low priority depending upon the needs identified by the managers. High priority items are generally those that are needed to address near-term stock assessment or management needs. Medium priority items are generally those that address longer-term needs, while low priority needs would provide

for more effective HMS management, despite lacking an immediate need. NMFS has listed as a medium priority for all Atlantic HMS species ''[examination of] the influence of climate change on range, migration, nursery/pupping grounds, and prey species for Atlantic HMS in general'' in Chapter 7 (which itemizes Research Needs) because EFH as a management tool is not useful if the EFH boundaries do not account for shifts in the distribution of managed species.

Comment 26: NMFS should conduct focused research or provide funding to evaluate impacts to Atlantic HMS EFH in the western Gulf of Mexico (specifically, Flower Garden Banks National Marine Sanctuary) and for restoration.

Response: Funding to evaluate EFH impacts to degraded habitats and for habitat restoration is beyond the scope of this Amendment. NOAA staff from the Flower Garden Banks National Marine Sanctuary conduct sanctuary implemented and sanctuary facilitated ecological and biological research, including research focused on habitat. It is beyond the scope of this amendment for the Atlantic HMS Management Division to directly conduct focused research, or for the Atlantic HMS Management Division to direct the Sanctuary to conduct focused research, on Atlantic HMS EFH within Flower Garden Banks National Marine Sanctuary. Interested persons should visit the Flower Garden Banks National Marine Sanctuary Web page for more information on current research programs: *https://flowergarden.noaa.gov/science/research.html*

Authority: 16 U.S.C. 971 *et seq.,* and 1801 *et seq.*

Dated: September 1, 2017.

Samuel D. Rauch III,

Deputy Assistant Administrator for Regulatory Programs, National Marine Fisheries Service.

[FR Doc. 2017–18961 Filed 9–6–17; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF DEFENSE

Department of the Navy

[Docket ID: USN–2015–0004]

Submission for OMB Review; Comment Request

ACTION: 30-day information collection notice.

SUMMARY: The Department of Defense has submitted to OMB for clearance, the following proposal for collection of information under the provisions of the Paperwork Reduction Act.

DATES: Consideration will be given to all comments received by October 10, 2017.

ADDRESSES: Comments and recommendations on the proposed information collection should be emailed to Ms. Jasmeet Seehra, DoD Desk Officer, at *Oira_submission@omb.eop.gov.* Please identify the proposed information collection by DoD Desk Officer and the Docket ID number and title of the information collection.

FOR FURTHER INFORMATION CONTACT: Fred Licari, 571–372–0493.

SUPPLEMENTARY INFORMATION:

Title, Associated Form and OMB Number: USMC Children, Youth and Teen Programs (CYTP) Registration Packet; NAVMC 11720, NAVMC 1750/4, and NAVMC 1750/5; OMB Control Number 0703–XXXX.

Type of Request: New Collection.

Number of Respondents: 112,000.

Responses per Respondent: 1.

Annual Responses: 112,000.

Average Burden per Response: 70 minutes.

Annual Burden Hours: 131,040.

Needs and Uses: The information collected on these forms is used by MFP and Inclusion Action Team (IAT) professionals for purposes of patron registration, to determine the general health status of patrons participating in CYTP activities and if necessary the appropriate accommodations for the patron for full enjoyment of CYTP services, and provides consent for information to be exchanged between MFP personnel and other designated individuals or organizations about a patron participating in MFP.

Affected Public: Individuals or households; business or other for-profit.

Frequency: Annually.

Respondent's Obligation: Voluntary.

OMB Desk Officer: Ms. Jasmeet Seehra.

You may also submit comments and recommendations, identified by Docket ID number and title, by the following method:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.

Instructions: All submissions received must include the agency name, Docket ID number and title for this **Federal Register** document. The general policy for comments and other submissions from members of the public is to make these submissions available for public viewing on the Internet at *http://www.regulations.gov* as they are received without change, including any personal identifiers or contact information.

DOD Clearance Officer: Mr. Frederick Licari.

Written requests for copies of the information collection proposal should be sent to Mr. Licari at WHS/ESD Directives Division, 4800 Mark Center Drive, East Tower, Suite 03F09, Alexandria, VA 22350–3100.

Dated: August 31, 2017.

Aaron Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2017–18928 Filed 9–6–17; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF EDUCATION

[Docket No.: ED–2017–ICCD–0114]

Agency Information Collection Activities; Comment Request; Generic Application Package for Departmental Generic Grant Programs

AGENCY: Office of the Secretary (OS), Department of Education (ED).

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, ED is proposing an extension of an existing information collection.

DATES: Interested persons are invited to submit comments on or before November 6, 2017.

ADDRESSES: To access and review all the documents related to the information collection listed in this notice, please use *http://www.regulations.gov* by searching the Docket ID number ED–2017–ICCD–0114. Comments submitted in response to this notice should be submitted electronically through the Federal eRulemaking Portal at *http://www.regulations.gov* by selecting the Docket ID number or via postal mail, commercial delivery, or hand delivery. *Please note that comments submitted by fax or email and those submitted after the comment period will not be accepted.* Written requests for information or comments submitted by postal mail or delivery should be addressed to the Director of the Information Collection Clearance Division, U.S. Department of Education, 400 Maryland Avenue SW., LBJ, Room 216–32, Washington, DC 20202–4537.

FOR FURTHER INFORMATION CONTACT: For specific questions related to collection activities, please contact Alfreida Pettiford, 202–245–6110.

SUPPLEMENTARY INFORMATION: The Department of Education (ED), in accordance with the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3506(c)(2)(A)), provides the general

public and Federal agencies with an opportunity to comment on proposed, revised, and continuing collections of information. This helps the Department assess the impact of its information collection requirements and minimize the public's reporting burden. It also helps the public understand the Department's information collection requirements and provide the requested data in the desired format. ED is soliciting comments on the proposed information collection request (ICR) that is described below. The Department of Education is especially interested in public comment addressing the following issues: (1) Is this collection necessary to the proper functions of the Department; (2) will this information be processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how might the Department enhance the quality, utility, and clarity of the information to be collected; and (5) how might the Department minimize the burden of this collection on the respondents, including through the use of information technology. Please note that written comments received in response to this notice will be considered public records.

Title of Collection: Generic Application Package for Departmental Generic Grant Programs.

OMB Control Number: 1894–0006.

Type of Review: An extension of an existing information collection.

Respondents/Affected Public: Individuals or Households.

Total Estimated Number of Annual Responses: 9,861.

Total Estimated Number of Annual Burden Hours: 447,089.

Abstract: The Department is requesting an extension of the approval for the Generic Application Package that numerous ED discretionary grant programs use to provide to applicants the forms and information needed to apply for new grants under those grant program competitions. The Department will use this Generic Application package for discretionary grant programs that: (1) Use the standard ED or Federal-wide grant applications forms that have been cleared separately through OMB under the terms of this generic clearance as approved by OMB and (2) use selection criteria from the Education Department General Administrative Regulations (EDGAR); selection criteria that reflect statutory or regulatory provisions that have been developed under 34 CFR 75.209, or a combination of EDGAR, statutory or regulatory criteria or other provisions, as authorized under 34 CFR 75.200 and 75.209. The use of the standard ED grant application forms and the use of EDGAR and/or criteria developed under §§ 75.200 and 75.209 promotes the standardization and streamlining of ED discretionary grant application packages.

Dated: September 1, 2017.

Stephanie Valentine,

Acting Director, Information Collection Clearance Division, Office of the Chief Privacy Officer, Office of Management.

[FR Doc. 2017–18967 Filed 9–6–17; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

[Docket No.: ED–2017–ICCD–0113]

Agency Information Collection Activities; Comment Request; Experimental Sites Initiative Reporting Tool 2017

AGENCY: Department of Education (ED), Federal Student Aid (FSA).

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, ED is proposing a new information collection.

DATES: Interested persons are invited to submit comments on or before November 6, 2017.

ADDRESSES: To access and review all the documents related to the information collection listed in this notice, please use *http://www.regulations.gov* by searching the Docket ID number ED–2017–ICCD–0113. Comments submitted in response to this notice should be submitted electronically through the Federal eRulemaking Portal at *http://www.regulations.gov* by selecting the Docket ID number or via postal mail, commercial delivery, or hand delivery. *Please note that comments submitted by fax or email and those submitted after the comment period will not be accepted.* Written requests for information or comments submitted by postal mail or delivery should be addressed to the Director of the Information Collection Clearance Division, U.S. Department of Education, 400 Maryland Avenue SW., LBJ, Room 216–32, Washington, DC 20202–4537.

FOR FURTHER INFORMATION CONTACT: For specific questions related to collection activities, please contact Warren Farr, 202–377–4380.

SUPPLEMENTARY INFORMATION: The Department of Education (ED), in accordance with the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3506(c)(2)(A)), provides the general public and Federal agencies with an opportunity to comment on proposed, revised, and continuing collections of information. This helps the Department assess the impact of its information collection requirements and minimize the public's reporting burden. It also helps the public understand the Department's information collection requirements and provide the requested data in the desired format. ED is soliciting comments on the proposed information collection request (ICR) that is described below. The Department of Education is especially interested in public comment addressing the following issues: (1) Is this collection necessary to the proper functions of the Department; (2) will this information be processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how might the Department enhance the quality, utility, and clarity of the information to be collected; and (5) how might the Department minimize the burden of this collection on the respondents, including through the use of information technology. Please note that written comments received in response to this notice will be considered public records.

Title of Collection: Experimental Sites Initiative Reporting Tool 2017.

OMB Control Number: 1845–NEW.

Type of Review: A new information collection.

Respondents/Affected Public: Private Sector; State, Local, and Tribal Governments.

Total Estimated Number of Annual Responses: 300.

Total Estimated Number of Annual Burden Hours: 5,100.

Abstract: The Secretary of the US Department of Education is authorized under Sec. 487A(b) to periodically select a limited number of institutions for voluntary participation as experimental sites under the Experimental Sites Initiatives (ESI) to provide recommendations on the impact and effectiveness of proposed regulations or new management initiatives. The Department approved nine experiments to test ways to address federal objectives and meet the needs of financial aid administrators and federal financial aid recipients. Under the experiments, institutions are given the flexibility to test alternatives to existing requirements so that the Department can analyze the data obtained from participating institutions to validate current practices or to obtain information supportive of regulatory changes or recommendations for legislative change. The collection of this data and the results of these experiments will help the Department in its continuing efforts to improve Title IV program administration.

Dated: September 1, 2017.

Stephanie Valentine,

Acting Director, Information Collection Clearance Division, Office of the Chief Privacy Officer, Office of Management.

[FR Doc. 2017–18964 Filed 9–6–17; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

Tests Determined To Be Suitable for Use in the National Reporting System for Adult Education

AGENCY: Office of Career, Technical, and Adult Education, Department of Education.

ACTION: Notice.

SUMMARY: The Secretary announces tests, test forms, and delivery formats that the Secretary determines to be suitable for use in the National Reporting System for Adult Education (NRS).

FOR FURTHER INFORMATION CONTACT: Jay LeMaster, Department of Education, 400 Maryland Avenue SW., Room 11–152, Potomac Center Plaza, Washington, DC 20202–7240. Telephone: (202) 245–6218 or by email: *John.LeMaster@ed.gov.*

If you use a telecommunications device for the deaf (TDD) or a text telephone (TTY), call the Federal Relay Service (FRS), toll free, at 1–800–877–8339.

SUPPLEMENTARY INFORMATION: On January 14, 2008, we published in the **Federal Register** final regulations for 34 CFR part 462, Measuring Educational Gain in the National Reporting System for Adult Education (NRS regulations) (73 FR 2306). The NRS regulations established the process the Secretary uses to determine the suitability of tests for use in the NRS by States and local eligible providers. We annually publish in the **Federal Register** and post on the internet at *www.nrsweb.org* a list of the names of tests and the educational functioning levels the tests are suitable to measure in the NRS as required by § 462.12(c)(2).

On December 13, 2016, the Secretary published in the **Federal Register** (81 FR 89920) an annual notice of tests determined to be suitable for use in the NRS (December 2016 notice). The Secretary announced a list of tests and test forms determined to be suitable for use in the NRS, including: (1) Eight tests previously approved for a seven-year period from February 2, 2010 through February 2, 2017, and approved for an extended period through February 2, 2019; (2) three tests previously approved for an extended period through February 2, 2017, and approved for an extended period through February 2, 2019; and (3) one test—a revised version of a test previously approved for an extended period through February 2, 2017—for which the Secretary extended approval through February 2, 2019. The Secretary took this action to extend the approved periods for all 12 of these tests through February 2, 2019, in light of the following intervening factors: (1) The Department of Education's (Department's) plan to implement new descriptors for the NRS educational functioning levels and implement new regulations in 34 CFR part 462 (published in the **Federal Register** on August 19, 2016 (81 FR 55526) and effective as of September 19, 2016) that would govern the assessment review process; (2) the Department's desire to minimize disruption for its grantees in the transition to the Adult Education and Family Literacy Act (AEFLA) as authorized by the Workforce Innovation and Opportunity Act of 2014 (WIOA), including with respect to measuring educational functioning level gain under the NRS; and (3) the attendant transition authority in section 503(c) of WIOA, which authorizes the Secretary of Education to ''take such actions as the Secretary determines to be appropriate to provide for the orderly transition'' from AEFLA as authorized by the Workforce Investment Act of 1998 (WIA) to AEFLA as authorized by WIOA. The Secretary also clarified that, to provide for the transition from the performance accountability system for AEFLA under WIA to the performance accountability system for AEFLA as authorized by WIOA, the December 2016 notice remains effective until June 30, 2019.

In addition to the tests identified in the December 2016 notice as determined to be suitable for use in the NRS through February 2, 2019, the Secretary now announces an additional test and test forms that have been determined to be suitable for use in the NRS, in accordance with § 462.13. This test measures the new NRS educational functioning levels for Literacy/English Language Arts and Mathematics at all Adult Basic Education (ABE) levels, as described in Appendix E of *Implementation Guidelines: Measures and Methods for the National Reporting System for Adult Education* (OMB Control Number: 1830–0027).

Approved Tests, Forms, and Approved Periods

Adult education programs must use only the approved forms and computer-based delivery formats for the tests published in this document. If a particular test form or computer delivery format is not explicitly specified for a test in the December 2016 notice or in this notice, it is not approved for use in the NRS.

Test Determined To Be Suitable for Use in the NRS for a Seven-Year Period From the Date of Publication of This Notice

The Secretary has determined that the following test is suitable for use in Literacy/English Language Arts and Mathematics at all ABE levels of the NRS for a period of seven years from the date of publication of this notice:

Tests of Adult Basic Education (TABE 11/12). Forms 11 and 12 are approved for use on paper and through a computer-based delivery format. Publisher: Data Recognition Corporation—CTB, 13490 Bass Lake Road, Maple Grove, MN 55311. Telephone: 800–538–9547. Internet: *www.ctb.com/.*

Revocation of Tests

Under certain circumstances, the Secretary may revoke the determination that a test is suitable (see § 462.12(e)). If the Secretary revokes the determination of suitability, the Secretary announces through the **Federal Register** and posts on the internet at *www.nrsweb.org* a notice of that revocation, along with the date by which States and local eligible providers must stop using the revoked test.

Accessible Format: Individuals with disabilities can obtain this document in an accessible format (such as Braille, large print, audiotape, or compact disc) on request to the contact person listed under **FOR FURTHER INFORMATION CONTACT** in this notice.

Electronic Access to This Document: The official version of this document is the document published in the **Federal Register**. Free internet access to the official edition of the **Federal Register** and the Code of Federal Regulations is available via the Federal Digital System at: *www.gpo.gov/fdsys.* At this site you can view this document, as well as all other documents of this Department published in the **Federal Register**, in text or Adobe Portable Document Format (PDF). To use PDF you must have Adobe Acrobat Reader, which is available free at the site.

You may also access documents of the Department published in the **Federal Register** by using the article search feature at: *www.federalregister.gov.* Specifically, through the advanced search feature at this site, you can limit your search to documents published by the Department.

Program Authority: 20 U.S.C. 9212.

Dated: September 1, 2017.

Kim R. Ford,

Deputy Assistant Secretary, Delegated the Duties of Assistant Secretary for Career, Technical, and Adult Education.

[FR Doc. 2017–19004 Filed 9–6–17; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings #1

Take notice that the Commission received the following electric corporate filings:

Docket Numbers: EC17–167–000.

Applicants: Shoreham Solar Commons LLC, Duke Energy Renewables Solar, LLC.

Description: Application for Authorization Under Section 203 of the Federal Power Act and Request for Waivers and Expedited Action of Shoreham Solar Commons LLC, et al.

Filed Date: 8/30/17.

Accession Number: 20170830–5159.

Comments Due: 5 p.m. ET 9/20/17.

Docket Numbers: EC17–168–000.

Applicants: Florida Power & Light Company.

Description: Application for Approval of Acquisition of Transmission Assets Pursuant to Section 203 of the Federal Power Act and Request for Expedited Action of Florida Power & Light Company.

Filed Date: 8/30/17.

Accession Number: 20170830–5161.

Comments Due: 5 p.m. ET 9/20/17.

Docket Numbers: EC17–169–000.

Applicants: Duke Energy Indiana, LLC.

Description: Application for Authorization Under Section 203 for Duke Energy Indiana, LLC.

Filed Date: 8/30/17.

Accession Number: 20170830–5163.

Comments Due: 5 p.m. ET 9/20/17.

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER10–2950–011.

Applicants: Spruance Genco, LLC.

Description: Notice of Non-Material Change in Status by Spruance Genco, LLC.

Filed Date: 8/29/17.

Accession Number: 20170829–5135.

Comments Due: 5 p.m. ET 9/19/17.

Docket Numbers: ER17–1756–000.

Applicants: Midcontinent Independent System Operator, Inc., Ameren Illinois Company.

Description: Ameren Services Company, on behalf of Ameren Illinois Company submits tariff filing per 35.19a(b): Refund Report to be effective N/A.

Filed Date: 8/30/17.

Accession Number: 20170830–5174.

Comments Due: 5 p.m. ET 9/20/17.

Docket Numbers: ER17–2385–000.

Applicants: Great Valley Solar 3, LLC.

Description: Baseline eTariff Filing: Great Valley Solar 3, LLC Petition for Order Accepting Market-Based Rate Tariff to be effective 10/1/2017.

Filed Date: 8/30/17.

Accession Number: 20170830–5143.

Comments Due: 5 p.m. ET 9/20/17.

Docket Numbers: ER17–2386–000.

Applicants: Great Bay Solar I, LLC.

Description: Initial rate filing: Reactive Service to be effective 11/1/2017.

Filed Date: 8/30/17.

Accession Number: 20170830–5148.

Comments Due: 5 p.m. ET 9/20/17.

Docket Numbers: ER17–2387–000.

Applicants: California Independent System Operator Corporation.

Description: Sec. 205(d) Rate Filing: 2017–08–31 Transferred Frequency Response Agreement Bonneville Power Admin. to be effective 11/1/2017.

Filed Date: 8/31/17.

Accession Number: 20170831–5000.

Comments Due: 5 p.m. ET 9/21/17.

Docket Numbers: ER17–2388–000.

Applicants: Southwest Power Pool, Inc., Southwestern Public Service Company.

Description: Joint Request for Limited Tariff Waiver of Southwestern Public Service Company, et al.

Filed Date: 8/30/17.

Accession Number: 20170830–5157.

Comments Due: 5 p.m. ET 9/20/17.

Docket Numbers: ER17–2389–000.

Applicants: Midcontinent Independent System Operator, Inc.

Description: Notice of Cancellation of Service Agreement No. 636 of Midcontinent Independent System Operator, Inc.

Filed Date: 8/30/17.

Accession Number: 20170830–5158.

Comments Due: 5 p.m. ET 9/20/17.

Docket Numbers: ER17–2390–000.

Applicants: PJM Interconnection, L.L.C.

Description: Tariff Cancellation: Notice of Cancellation of WMPA No. 4749; Queue No. AC1–037 to be effective 10/30/2017.

Filed Date: 8/31/17.

Accession Number: 20170831–5034.

Comments Due: 5 p.m. ET 9/21/17.

The filings are accessible in the Commission's eLibrary system by clicking on the links or querying the docket number.

Any person desiring to intervene or protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Regulations (18 CFR 385.211 and 385.214) on or before 5:00 p.m. Eastern time on the specified comment date. Protests may be considered, but intervention is necessary to become a party to the proceeding.

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, service, and qualifying facilities filings can be found at: *http://www.ferc.gov/docs-filing/efiling/filing-req.pdf.* For other information, call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: August 31, 2017.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2017–18940 Filed 9–6–17; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP17–487–000]

Columbia Gas Transmission, LLC; Notice of Request Under Blanket Authorization

Take notice that on August 22, 2017, Columbia Gas Transmission, LLC (Columbia), 700 Louisiana Street, Suite 700, Houston, Texas 77002–2700, filed in Docket No. CP17–487–000 and pursuant to sections 157.205 and 157.208 of the Commission's regulations, a prior notice under its blanket certificate issued in Docket No. CP83–76–000 requesting authorization to install facilities and appurtenances and to make other modifications (Crawford Counterstorage Project) at its existing Crawford Compressor Station, located in Fairfield County, Ohio. The project will increase the compression available for counterstorage at its existing Crawford Storage Field, located in Hocking and Fairfield Counties, Ohio, all as more fully set forth in the application, which is on file with the Commission and open to public inspection. The filing may also be viewed on the web at *http://www.ferc.gov* using the ''eLibrary'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, contact FERC at *FERCOnlineSupport@ferc.gov* or call toll-free, (886) 208–3676 or TYY, (202) 502–8659.

Columbia proposes to install one (1) Cat 3520/Ariel high-speed reciprocating compressor unit, rated at 1,480 horsepower. Additionally, Columbia proposes to designate as standby units two (2) existing Waukesha reciprocating compressor units, rated at 250 hp each (Units 2 and 3), which are currently utilized for counterstorage compression. The project will also involve the construction of a new compressor building, new dehydration system, new gas cooler, new separators and scrubbers, new control room building, and new station piping. The project will result in an increase in counterstorage compression of 980 hp. The certificated physical parameters of the Crawford Storage Field will remain unchanged by the proposed modifications. The estimated cost of the project is approximately $20 million.

Any questions regarding this application should be directed to Robert D. Jackson, Manager, Certificates & Regulatory Administration, Columbia Gas Transmission, LLC, 700 Louisiana Street, Suite 700, Houston, Texas 77002–2700, at (832) 320–5487 or FAX (832) 320–6487, or *robert_jackson@transcanada.com.*

Any person may, within 60 days after the issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention. Any person filing to intervene or the Commission's staff may, pursuant to section 157.205 of the Commission's Regulations under the Natural Gas Act (NGA) (18 CFR 157.205) file a protest to the request. If no protest is filed within the time allowed therefore, the proposed activity shall be deemed to be authorized effective the day after the time allowed for protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to section 7 of the NGA.

Pursuant to section 157.9 of the Commission's rules, 18 CFR 157.9, within 90 days of this Notice the Commission staff will either: Complete its environmental assessment (EA) and place it into the Commission's public record (eLibrary) for this proceeding; or issue a Notice of Schedule for Environmental Review. If a Notice of Schedule for Environmental Review is issued, it will indicate, among other milestones, the anticipated date for the Commission staff's issuance of the final environmental impact statement (FEIS) or EA for this proposal. The filing of the EA in the Commission's public record for this proceeding or the issuance of a Notice of Schedule for Environmental Review will serve to notify federal and state agencies of the timing for the completion of all necessary reviews, and the subsequent need to complete all federal authorizations within 90 days of the date of issuance of the Commission staff's FEIS or EA.

Persons who wish to comment only on the environmental review of this project should submit an original and two copies of their comments to the Secretary of the Commission. Environmental commenter's will be placed on the Commission's environmental mailing list, will receive copies of the environmental documents, and will be notified of meetings associated with the Commission's environmental review process. Environmental commenter's will not be required to serve copies of filed documents on all other parties. However, the non-party commentary, will not receive copies of all documents filed by other parties or issued by the Commission (except for the mailing of environmental documents issued by the Commission) and will not have the right to seek court review of the Commission's final order.

The Commission strongly encourages electronic filings of comments, protests, and interventions via the internet in lieu of paper. See 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site (*www.ferc.gov*) under the e-Filing link. Persons unable to file electronically should submit original and 5 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426.

Comment Date: 5:00 p.m. Eastern Time October 31, 2017.

Dated: August 31, 2017.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2017–18996 Filed 9–6–17; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings #2

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER17–2391–000.

Applicants: Avista Corporation.

Description: § 205(d) Rate Filing: Avista Corp OATT—Misc Revisions to be effective 11/1/2017.

Filed Date: 8/31/17.

Accession Number: 20170831–5082.

Comments Due: 5 p.m. ET 9/21/17.

Docket Numbers: ER17–2392–000.

Applicants: PacifiCorp.

Description: § 205(d) Rate Filing: Pacificorp EIM MBR Application_ August 31 2017 to be effective 11/1/2017.

Filed Date: 8/31/17.

Accession Number: 20170831–5096.

Comments Due: 5 p.m. ET 9/21/17.

Docket Numbers: ER17–2393–000.

Applicants: California Independent System Operator Corporation.

Description: § 205(d) Rate Filing: 2017–08–31 Transferred Frequency Response Agreement Grant County to be effective 11/1/2017.

Filed Date: 8/31/17.

Accession Number: 20170831–5113.

Comments Due: 5 p.m. ET 9/21/17.

Docket Numbers: ER17–2394–000.

Applicants: Nevada Power Company.

Description: § 205(d) Rate Filing: Market-Based Rate Tariff NPC 08.31.17 to be effective 11/1/2017.

Filed Date: 8/31/17.

Accession Number: 20170831–5118.

Comments Due: 5 p.m. ET 9/21/17.

Docket Numbers: ER17–2395–000.

Applicants: Sierra Pacific Power Company.

Description: § 205(d) Rate Filing: Market-Based Rate Tariff Volume No. 7 SPPC 08.31.17 to be effective 11/1/2017.

Filed Date: 8/31/17.

Accession Number: 20170831–5122.

Comments Due: 5 p.m. ET 9/21/17.

Docket Numbers: ER17–2396–000.

Applicants: Mid-Atlantic Interstate Transmission, LLC, PJM Interconnection, L.L.C.

Description: § 205(d) Rate Filing: MAIT submits Settlement Payment Agreement No. 4767 to be effective 8/8/2017.

Filed Date: 8/31/17.

Accession Number: 20170831–5134.

Comments Due: 5 p.m. ET 9/21/17.

Docket Numbers: ER17–2397–000.

Applicants: Public Service Company of Colorado.

Description: § 205(d) Rate Filing: PSCo–PSCoES–LGIA–464–0.0.0 Filing to be effective 9/1/2017.

Filed Date: 8/31/17.

Accession Number: 20170831–5137.

Comments Due: 5 p.m. ET 9/21/17.

Docket Numbers: ER17–2398–000.

Applicants: California Independent System Operator Corporation.

Description: § 205(d) Rate Filing: 2017–08–31 Transferred Frequency Response Agreement Chelan County to be effective 11/1/2017.

Filed Date: 8/31/17.

Accession Number: 20170831–5141.

Comments Due: 5 p.m. ET 9/21/17.

Docket Numbers: ER17–2399–000.

Applicants: Entergy Arkansas, Inc.

Description: § 205(d) Rate Filing: Revised EAI-Benton WDS Agreement to be effective 9/1/2017.

Filed Date: 8/31/17.

Accession Number: 20170831–5146.

Comments Due: 5 p.m. ET 9/21/17.

Docket Numbers: ER17–2400–000.

Applicants: SP Butler Solar, LLC.

Description: Baseline eTariff Filing: Application for MBR Authority and Initial Baseline Tariff Filing to be effective 9/1/2017.

Filed Date: 8/31/17.

Accession Number: 20170831–5153.

Comments Due: 5 p.m. ET 9/21/17.

Docket Numbers: ER17–2401–000.

Applicants: SP Decatur Parkway Solar, LLC.

Description: Baseline eTariff Filing: Application for MBR Authority and Initial Baseline Tariff Filing to be effective 9/1/2017.

Filed Date: 8/31/17.

Accession Number: 20170831–5154.

Comments Due: 5 p.m. ET 9/21/17.

Docket Numbers: ER17–2402–000.

Applicants: California Independent System Operator Corporation.

Description: § 205(d) Rate Filing: 2017–08–31 Westerm O'Neill Generator Scheduling Agreement to be effective 11/1/2017.

Filed Date: 8/31/17.

Accession Number: 20170831–5155.

Comments Due: 5 p.m. ET 9/21/17.

The filings are accessible in the Commission's eLibrary system by clicking on the links or querying the docket number.

Any person desiring to intervene or protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Regulations (18 CFR 385.211 and 385.214) on or before 5:00 p.m. Eastern time on the specified comment date. Protests may be considered, but intervention is necessary to become a party to the proceeding.

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, service, and qualifying facilities filings can be found at: *http://www.ferc.gov/docs-filing/efiling/filing-req.pdf.* For other information, call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: August 31, 2017.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2017–18941 Filed 9–6–17; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EF17–5–000]

Southeastern Power Administration; Notice of Filing

Take notice that on August 29, 2017, Southeastern Power Administration submitted tariff filing per: Georgia-Alabama-South Carolina System 2017 Rate Adjustment to be effective 10/1/2017.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed on or before the comment date. On or before the comment date, it is not necessary to serve motions to intervene or protests on persons other than the Applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the eFiling link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original and 5 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov,* using the eLibrary link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an eSubscription link on the Web site that enables subscribers to receive email notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please email *FERCOnlineSupport@ferc.gov,* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Comment Date: 5:00 p.m. Eastern Time on September 28, 2017.

Dated: August 31, 2017.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2017–18942 Filed 9–6–17; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER17–2385–000]

Great Valley Solar 3, LLC; Supplemental Notice That Initial Market-Based Rate Filing Includes Request for Blanket Section 204 Authorization

This is a supplemental notice in the above-referenced proceeding of Great Valley Solar 3, LLC's application for market-based rate authority, with an accompanying rate tariff, noting that such application includes a request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability.

Any person desiring to intervene or to protest should file with the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant.

Notice is hereby given that the deadline for filing protests with regard to the applicant's request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability, is September 20, 2017.

The Commission encourages electronic submission of protests and interventions in lieu of paper, using the FERC Online links at *http://www.ferc.gov.* To facilitate electronic service, persons with Internet access who will eFile a document and/or be listed as a contact for an intervenor must create and validate an eRegistration account using the eRegistration link. Select the eFiling link to log on and submit the intervention or protests.

Persons unable to file electronically should submit an original and 5 copies of the intervention or protest to the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426.

The filings in the above-referenced proceeding are accessible in the Commission's eLibrary system by clicking on the appropriate link in the above list. They are also available for electronic review in the Commission's Public Reference Room in Washington, DC. There is an eSubscription link on the Web site that enables subscribers to receive email notification when a document is added to a subscribed docket(s). For assistance with any FERC

Online service, please email *FERCOnlineSupport@ferc.gov.* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: August 31, 2017.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2017–18943 Filed 9–6–17; 8:45 am]

BILLING CODE 6717–01–P

FEDERAL COMMUNICATIONS COMMISSION

[OMB 3060–0565]

Information Collection Being Reviewed by the Federal Communications Commission Under Delegated Authority

AGENCY: Federal Communications Commission.

ACTION: Notice and request for comments.

SUMMARY: As part of its continuing effort to reduce paperwork burdens, and as required by the Paperwork Reduction Act of 1995 (PRA), the Federal Communications Commission (FCC or Commission) invites the general public and other Federal agencies to take this opportunity to comment on the following information collections. Comments are requested concerning: whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; the accuracy of the Commission's burden estimate; ways to enhance the quality, utility, and clarity of the information collected; ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology; and ways to further reduce the information collection burden on small business concerns with fewer than 25 employees.

The FCC may not conduct or sponsor a collection of information unless it displays a currently valid Office of Management and Budget (OMB) control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the PRA that does not display a valid OMB control number.

DATES: Written comments should be submitted on or before November 6, 2017. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the contacts below as soon as possible.

ADDRESSES: Direct all PRA comments to Cathy Williams, FCC, via email: *PRA@fcc.gov* and to *Cathy.Williams@fcc.gov.*

FOR FURTHER INFORMATION CONTACT: For additional information about the information collection, contact Cathy Williams at (202) 418–2918.

SUPPLEMENTARY INFORMATION: As part of its continuing effort to reduce paperwork burdens, and as required by the PRA, 44 U.S.C. 3501–3520, the FCC invites the general public and other Federal agencies to take this opportunity to comment on the following information collections. Comments are requested concerning: Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; the accuracy of the Commission's burden estimate; ways to enhance the quality, utility, and clarity of the information collected; ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology; and ways to further reduce the information collection burden on small business concerns with fewer than 25 employees.

OMB Control Number: 3060–0565.

Title: Section 76.944, Commission Review of Franchising Authority Decisions on Rates for the Basic Service Tier and Associated Equipment.

Form Number: N/A.

Type of Review: Extension of a currently approved collection.

Respondents: Business or other for-profit entities; State, Local or Tribal Government.

Number of Respondents and Responses: 32 respondents; 32 responses.

Estimated Time per Response: 2–30 hours.

Frequency of Response: On occasion reporting requirement; Third party disclosure requirement.

Obligation to Respond: Required to obtain benefits. The statutory authority for this collection of information is contained in Sections 4(i) and 623 of the Communications Act of 1934, as amended.

Nature and Extent of Confidentiality: There is no need for confidentiality with this collection of information.

Total Annual Burden: 816 hours.

Total Annual Costs: $4,800.

Privacy Impact Assessment(s): No impact(s).

Needs and Uses: The information collection requirements contained in 47 CFR 76.944(b) provide that any participant at the franchising authority level in a ratemaking proceeding may file an appeal of the franchising authority's decision with the Commission within 30 days of release of the text of the franchising authority's decision as computed under § 1.4(b) of this chapter. Appeals shall be served on the franchising authority or other authority that issued the rate decision. Where the state is the appropriate decision-making authority, the state shall forward a copy of the appeal to the appropriate local official(s). Oppositions may be filed within 15 days after the appeal is filed, and must be served on the parties appealing the rate decision. Replies may be filed seven (7) days after the last day for oppositions and shall be served on the parties to the proceeding.

Federal Communications Commission.

Katura Jackson,

Federal Register Liaison Officer, Office of the Secretary.

[FR Doc. 2017–18906 Filed 9–6–17; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

[OMB 3060–0678, 3060–0703, 3060–1070 and 3060–1161]

Information Collections Being Submitted for Review and Approval to the Office of Management and Budget

AGENCY: Federal Communications Commission.

ACTION: Notice and request for comments.

SUMMARY: As part of its continuing effort to reduce paperwork burdens, and as required by the Paperwork Reduction Act (PRA) of 1995, the Federal Communications Commission (FCC or the Commission) invites the general public and other Federal agencies to take this opportunity to comment on the following information collection. Comments are requested concerning: Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; the accuracy of the Commission's burden estimate; ways to enhance the quality, utility, and clarity of the information collected; ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology; and ways to further reduce the information

collection burden on small business concerns with fewer than 25 employees.

The Commission may not conduct or sponsor a collection of information unless it displays a currently valid Office of Management and Budget (OMB) control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the PRA that does not display a valid OMB control number.

DATES: Written comments should be submitted on or before October 10, 2017. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the contacts listed below as soon as possible.

ADDRESSES: Direct all PRA comments to Nicholas A. Fraser, OMB, via email *Nicholas_A._Fraser@omb.eop.gov*; and to Cathy Williams, FCC, via email *PRA@fcc.gov* and to *Cathy.Williams@fcc.gov.* Include in the comments the OMB control number as shown in the **SUPPLEMENTARY INFORMATION** below.

FOR FURTHER INFORMATION CONTACT: For additional information or copies of the information collection, contact Cathy Williams at (202) 418–2918. To view a copy of this information collection request (ICR) submitted to OMB: (1) Go to the Web page *http://www.reginfo.gov/public/do/PRAMain*, (2) look for the section of the Web page called ''Currently Under Review,'' (3) click on the downward-pointing arrow in the ''Select Agency'' box below the ''Currently Under Review'' heading, (4) select ''Federal Communications Commission'' from the list of agencies presented in the ''Select Agency'' box, (5) click the ''Submit'' button to the right of the ''Select Agency'' box, (6) when the list of FCC ICRs currently under review appears, look for the OMB control number of this ICR and then click on the ICR Reference Number. A copy of the FCC submission to OMB will be displayed.

SUPPLEMENTARY INFORMATION: As part of its continuing effort to reduce paperwork burdens, and as required by the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C. 3501–3520), the Federal Communications Commission (FCC or the Commission) invites the general public and other Federal agencies to take this opportunity to comment on the following information collection. Comments are requested concerning: Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; the accuracy of the Commission's burden estimate; ways to enhance the quality, utility, and clarity of the information collected; ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology; and ways to further reduce the information collection burden on small business concerns with fewer than 25 employees.

OMB Control No.: 3060–0678.

Title: Part 25 of the Federal Communications Commission's Rules Governing the Licensing of, and Spectrum Usage by, Commercial Earth Stations and Space Stations.

Form Nos.: FCC Form 312; Schedule A; Schedule B; Schedule S; FCC Form 312–EZ; FCC Form 312–R.

Type of Review: Revision of a currently approved information collection.

Respondents: Business or other for-profit entities.

Number of Respondents: 4,924 respondents; 4,981 responses.

Estimated Time per Response: .5–80 hours per response.

Frequency of Response: On occasion, one time, and annual reporting requirements; third-party disclosure requirement; recordkeeping requirement.

Obligation to Respond: Required to obtain or retain benefits. The statutory authority for this collection is contained in 47 U.S.C. 154, 301, 302, 303, 307, 309, 310, 319, 332, 605, and 721.

Total Annual Burden: 34,140 hours.

Annual Cost Burden: $10,625,120.

Privacy Act Impact Assessment: No impact(s).

Nature and Extent of Confidentiality: In general, there is no need for confidentiality with this collection of information. Certain information collected regarding international coordination of satellite systems is not routinely available for public inspection pursuant to 5 U.S.C. 552(b) and 47 CFR 0.457(d)(vii).

Needs and Uses: The Federal Communications Commission requests that the Office of Management and Budget (OMB) approve a revision of the information collection titled ''Part 25 of the Federal Communications Commission's Rules Governing the Licensing of, and Spectrum Usage By, Commercial Earth Stations and Space Stations'' under OMB Control No. 3060–0678, as a result of a recent rulemaking discussed below.

On April 25, 2017, the Commission released a Third Report and Order in IB Docket No. 06–123, FCC 17–49, titled ''Establishment of Policies and Service Rules for the Broadcasting-Satellite Service at the 17.3–17.7 GHz Frequency Band and at the 17.7–17.8 GHz Frequency Band Internationally, and at the 24.75–25.25 GHz Frequency Band for Fixed Satellite Services Providing Feeder Links to the Broadcasting-Satellite Service and for the Satellite Services Operating Bi-directionally in the 17.3–17.8 GHz Frequency Band.'' In the Report and Order, the Commission adopted rules requiring applicants for new licenses for Digital Broadcasting Satellite Service (DBS) feeder-link earth stations in the 17.3–17.8 GHz band to file with the Commission coordination agreements with affected Broadcasting-Satellite Service (BSS) licensees prior to licensing, and to provide technical information on their proposed feeder-link earth stations to a third-party coordinator to facilitate the coordination process (see 47 CFR 25.203(m)). The changes adopted in the Report and Order will result in a net annualized increase of 41 burden hours to applicants and licensees under Part 25. This submission amends the previous submission to the OMB of July 1, 2014, to reflect these changes.

OMB Control Number: 3060–0703.

Title: Determining Costs of Regulated Cable Equipment and Installation, FCC Form 1205.

Form Number: FCC Form 1205.

Type of Review: Extension of a currently approved collection.

Respondents: Business or other for-profit entities.

Number of Respondents and Responses: 4,000 respondents; 6,000 responses.

Estimated Time per Response: 4–12 hours.

Frequency of Response: Recordkeeping requirement, Annual reporting requirement, Third party disclosure requirement.

Obligation to Respond: Required to obtain or retain benefits. The statutory authority for this collection of information is contained in Section 301(j) of the Telecommunications Act of 1996 and 623(a)(7) of the Communications Act of 1934, as amended.

Total Annual Burden: 52,000 hours.

Total Annual Cost: $1,800,000.

Privacy Act Impact Assessment: No impact(s).

Nature and Extent of Confidentiality: There is no need for confidentiality with this collection of information.

Needs and Uses: Information derived from FCC Form 1205 filings is used to facilitate the review of equipment and installation rates. This information is then reviewed by each cable system's respective local franchising authority.

Section 76.923 records are kept by cable operators in order to demonstrate that charges for the sale and lease of equipment for installation have been developed in accordance with the Commission's rules.

OMB Control Number: 3060–1070.

Title: Allocation and Service Rules for the 71–76 GHz, 81–86 GHz, and 92–95 GHz Bands.

Form Number: N/A.

Type of Review: Extension of a currently approved collection.

Respondents: Business or other for-profit entities; not-for-profit institutions; and State, local, or Tribal Government.

Number of Respondents: 754 respondents; 3,000 responses.

Estimated Time per Response: 1.5 to 9 hours.

Frequency of Response: On occasion reporting requirement, recordkeeping requirement, and third-party disclosure requirement.

Obligation to Respond: Required to obtain or retain benefits. Statutory authority for this information collection is contained in 47 U.S.C. 151, 154(i), 303(f) and (r), 309, 316, and 332 of the Communications Act of 1934, as amended.

Total Annual Burden: 11,250 hours.

Total Annual Cost: $910,000.

Privacy Impact Assessment: No impact(s).

Nature and Extent of Confidentiality: There is no need for confidentiality. The Commission has not granted assurances of confidentially to those parties submitting the information. In those cases where a respondent believes information requires confidentiality, the respondent can request confidential treatment and the Commission will afford such confidentiality for 20 days, after which the information will be available to the public.

Needs and Uses: The Commission is seeking an extension of this information collection in order to obtain the full three year approval from OMB. There are no program changes to the reporting, recordkeeping and/or third-party disclosure requirements but we are revising estimates based on experience and the possible addition of a fourth database manager. The recordkeeping, reporting, and third party disclosure requirements will be used by the Commission to verify licensee compliance with the Commission rules and regulations, and to ensure that licensees continue to fulfill their statutory responsibilities in accordance with the Communications Act of 1934. The Commission's rules promote the private sector development and use of 71–76 GHz, 81–86 GHz, and 92–95 GHz bands (70/80/90 GHz bands). Such information has been used in the past and will continue to be used to minimize interference, verify that applicants are legally and technically qualified to hold license, and to determine compliance with Commission rules.

OMB Control Number: 3060–1161.

Title: Construction requirements; Interim reports—Sections 27.14(g)–(l).

Form Number: N/A.

Type of Review: Extension of currently approved information collection.

Respondents: Business or other for-profit entities.

Number of Respondents: 1,118 respondents; 1,118 responses.

Estimated Time per Response: 5–15 hours.

Frequency of Response: One-time reporting requirement and on occasion reporting requirement.

Obligation to Respond: Required to obtain or retain benefits. Statutory authority for, these collections are contained in 47 U.S.C. 154, 301, 302(a), 303, 309, 332, 336, and 337 unless otherwise noted.

Total Annual Burden: 11,260 hours.

Total Annual Cost: $1,893,700.

Privacy Impact Assessment: No impact(s).

Nature and Extent of Confidentiality: There is no need for confidentiality with this collection of information.

Needs and Uses: On July 31, 2007, the Commission adopted a Second Report and Order, in WT Docket No. 06–150, CC Docket No. 94–102, WT Docket No. 01–309, WT Docket No. 03–264, WT Docket No. 06–169, PS Docket No. 06–229, WT Docket No. 96–86, WT Docket No. 07–166, FCC No. 07–132 (2007 Report and Order), which established rules governing wireless licenses in the 700 MHz spectrum. The 700 MHz spectrum was made available for wireless services, including public safety and commercial services, as a result of the digital television (''DTV'') transition. Title III of the Deficit Reduction Act of 2005 (''DRA''), Public Law 109–171, 120 Stat. 4 (2006), (titled the Digital Television Transition and Public Safety Act of 2005 [''DTV Act'']), accelerated the DTV transition completion date to February 17, 2009.

In light of the change to the DTV transition, as well as developments in commercial wireless communications and evolving needs of the public safety community, the Commission re-examined its 700 MHz rules and combined the following three interrelated proceedings: (1) The 700 MHz Commercial Services proceeding, 71 FR 48506 (2006), (2) the 700 MHz Guard Bands proceeding, 71 FR 57455, and (3) the 700 MHz Public Safety proceeding, 72 FR 1201 (2007); 71 FR 17786 (2006), which yielded in April 2007 both a Report and Order and Further Notice of Proposed Rulemaking (the 700 MHz Report and Order, 72 FR 27688 (2007), and 700 MHz Further NPRM, 72 FR 24238 (2007), respectively. (See FCC 07–72.)

Among the many actions taken in the 2007 Report and Order, the Commission: Adopted a mix of geographic license area sizes for the commercial services, including Cellular Market Areas (CMAs), Economic Areas (EAs), and Regional Economic Areas (REAGs); eliminated rules that permit comparative hearings for license renewal, and clarified the requirements and procedures of the license renewal process; shifted the license termination date from January 15, 2015 to February 17, 2019, thus granting licensees an initial license term not-to-exceed ten years after the end of the DTV transition; adopted a power spectral density model to provide greater operational flexibility to licensees operating at wider bandwidths; continued to allow a 50 kW effective radiated power level for base station operations for auctioned licenses and unpaired spectrum in the lower 700 MHz band (TV Channels 52–59); modified power limits for upper 700 MHz band (TV Channels 60–69), and; permitted 700 MHz licensees to meet radiated power limits on an average, rather than peak, basis.

Further, in order to promote access to spectrum and the provision of service, the 2007 Report and Order adopted revised performance requirements for certain 700 MHz licensees, including the use of interim and end-of-term benchmarks. The 2007 Report and Order also imposed interim reporting requirements on licensees to provide the Commission with information concerning the status of licensees' efforts to meet performance requirements and the manner in which their spectrum is being utilized.

On February 20, 2009, the Commission adopted a Second Report and Order and Notice of Proposed Rulemaking in MB Docket No. 09–17, MB Docket No. 07–148, MB Docket No. 07–91, MB Docket No. 08–255, WT Docket No. 06–150, WT Docket No. 06–169, PS Docket No. 06–229, WT Docket No. 96–86, FCC 09–11, to implement the DTV Delay Act, Public Law 111–4, 123 Stat. 112 (2009), which extended the DTV transition deadline from February 17, 2009, to June 12, 2009. Steps taken by the Commission to conform with the

DTV Delay Act included the extension of applicable 700 MHz construction benchmarks and reporting requirements by a period of 116 days.

On October 29, 2013, the Commission issued a Report and Order and Order of Proposed Modification in WT Docket No. 12–69 and WT Docket No. 12–332, FCC 13–136 (700 MHz Interoperability Order), in which it revised certain technical rules and extended or waived construction deadlines for certain licenses in order to resolve issues resulting from the lack of interoperability in the Lower 700 MHz Band. The Report and Order did not revise any of the information collection requirements that are contained in this collection. It simply waived or revised the dates on which the information collection requirements are required.

Federal Communications Commission.

Katura Jackson,

Federal Register Liaison Officer, Office of the Secretary.

[FR Doc. 2017–18907 Filed 9–6–17; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

[OMB 3060–0400]

Information Collection Being Submitted for Review and Approval to the Office of Management and Budget

AGENCY: Federal Communications Commission.

ACTION: Notice and request for comments.

SUMMARY: As part of its continuing effort to reduce paperwork burdens, and as required by the Paperwork Reduction Act (PRA) of 1995, the Federal Communications Commission (FCC or the Commission) invites the general public and other Federal agencies to take this opportunity to comment on the following information collection. Comments are requested concerning: Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; the accuracy of the Commission's burden estimate; ways to enhance the quality, utility, and clarity of the information collected; ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology; and ways to further reduce the information collection burden on small business concerns with fewer than 25 employees.

The Commission may not conduct or sponsor a collection of information unless it displays a currently valid Office of Management and Budget (OMB) control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the PRA that does not display a valid OMB control number.

DATES: Written comments should be submitted on or before October 10, 2017. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the contacts listed below as soon as possible.

ADDRESSES: Direct all PRA comments to Nicholas A. Fraser, OMB, via email *Nicholas_A._Fraser@omb.eop.gov;* and to Nicole Ongele, FCC, via email *PRA@fcc.gov* and to *Nicole.Ongele@fcc.gov.* Include in the comments the OMB control number as shown in the **SUPPLEMENTARY INFORMATION** below.

FOR FURTHER INFORMATION CONTACT: For additional information or copies of the information collection, contact Nicole Ongele at (202) 418–2991. To view a copy of this information collection request (ICR) submitted to OMB: (1) Go to the Web page *http://www.reginfo.gov/public/do/PRAMain,* (2) look for the section of the Web page called ''Currently Under Review,'' (3) click on the downward-pointing arrow in the ''Select Agency'' box below the ''Currently Under Review'' heading, (4) select ''Federal Communications Commission'' from the list of agencies presented in the ''Select Agency'' box, (5) click the ''Submit'' button to the right of the ''Select Agency'' box, (6) when the list of FCC ICRs currently under review appears, look for the OMB control number of this ICR and then click on the ICR Reference Number. A copy of the FCC submission to OMB will be displayed.

SUPPLEMENTARY INFORMATION: As part of its continuing effort to reduce paperwork burdens, and as required by the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C. 3501–3520), the Federal Communications Commission (FCC or the Commission) invites the general public and other Federal agencies to take this opportunity to comment on the following information collection. Comments are requested concerning: Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; the accuracy of the Commission's burden estimate; ways to enhance the quality, utility, and clarity of the information collected; ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology; and ways to further reduce the information collection burden on small business concerns with fewer than 25 employees.

OMB Control Number: 3060–0400.

Title: Part 61, Tariff Review Plan (TRP).

Form Number: N/A.

Type of Review: Revision of a currently approved collection.

Respondents: Business or other for-profit.

Number of Respondents and Responses: 2,749 respondents; 4,165 responses.

Estimated Time per Response: 0.50 hours–53 hours.

Frequency of Response: One-time, on occasion, biennial, and annual reporting requirements.

Obligation to Respond: Required to obtain or retain benefits. Statutory authority for this information collection (IC) is contained in 47 U.S.C. 10(a) of the Communications Act of 1934, as amended.

Total Annual Burden: 60,878 hours.

Total Annual Cost: No cost.

Privacy Act Impact Assessment: No impact(s).

Nature and Extent of Confidentiality: Respondents are not being asked to submit confidential information to the Commission. If the Commission requests respondents to submit information which respondents believe are confidential, respondents may request confidential treatment of such information under 47 CFR 0.459 of the Commission's rules.

Needs and Uses: The Commission has developed standardized Tariff Review Plans (TRPs) that set forth the summary material that incumbent LECs (ILECs) file to support revisions to the rates in their interstate access service tariffs. The TRPs display basic data on rate development in a consistent manner, thereby facilitating review of the ILEC rate revisions by the Commission and interested parties. The TRPs have served this purpose effectively in past years.

On April 20, 2017, the Commission adopted the *Business Data Services Order,* FCC 17–43, reforming the business data services/special access regulations for incumbent and competitive LECs by detariffing certain business data services and modifying the regulatory obligations for those business data services that will remain tariffed. Additionally, the *Business Data*

Services Order adopted an X-factor of two percent and required price cap ILECs to make a one-time filing to revise their TRPs to implement the new X-factor to become effective on December 1, 2017. In particular, the Commission amended section 61.45(b)(1)(iv) of its rules to state that the X-factor shall equal 2 percent effective December 1, 2017. To ease the burden on industry, the only factor that changes in the revised TRPs is the X-factor. Base period demand and the value of GDP–PI will stay constant for this particular filing.

Federal Communications Commission.

Katura Jackson,

Federal Register Liaison Officer, Office of the Secretary.

[FR Doc. 2017–18905 Filed 9–6–17; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL DEPOSIT INSURANCE CORPORATION

Notice of Termination; 10244 Granite Community Bank, NA, Granite Bay, California

The Federal Deposit Insurance Corporation (FDIC), as Receiver for 10244 Granite Community Bank, NA., Granite Bay, California (Receiver) has been authorized to take all actions necessary to terminate the receivership estate of Granite Community Bank, NA. (Receivership Estate); the Receiver has made all dividend distributions required by law.

The Receiver has further irrevocably authorized and appointed FDIC-Corporate as its attorney-in-fact to execute and file any and all documents that may be required to be executed by the Receiver which FDIC-Corporate, in its sole discretion, deems necessary; including but not limited to releases, discharges, satisfactions, endorsements, assignments and deeds.

Effective September 1, 2017, the Receivership Estate has been terminated, the Receiver discharged, and the Receivership Estate has ceased to exist as a legal entity.

Dated: September 1, 2017.

Federal Deposit Insurance Corporation.

Robert E. Feldman,

Executive Secretary.

[FR Doc. 2017–18947 Filed 9–6–17; 8:45 am]

BILLING CODE 6714–01–P

FEDERAL ELECTION COMMISSION

Sunshine Act Meeting

AGENCY: Federal Election Commission.

DATE AND TIME: *Tuesday, September 12, 2017 at 10:00 a.m. and its* Continuation at the Conclusion of the Open Meeting on September 14, 2017

PLACE: 999 E Street NW., Washington, DC

STATUS: This Meeting Will Be Closed to the Public.

ITEMS TO BE DISCUSSED: Compliance matters pursuant to 52 U.S.C. 30109.

Information the premature disclosure of which would be likely to have a considerable adverse effect on the implementation of a proposed Commission action.

Matters concerning participation in civil actions or proceedings or arbitration.

* * * * *

PERSON TO CONTACT FOR INFORMATION: Judith Ingram, Press Officer, Telephone: (202) 694–1220

Laura E. Sinram,

Acting Deputy Secretary of the Commission.

[FR Doc. 2017–19091 Filed 9–5–17; 4:15 pm]

BILLING CODE 6715–01–P

FEDERAL MARITIME COMMISSION

Notice of Agreements Filed

The Commission hereby gives notice of the filing of the following agreements under the Shipping Act of 1984. Interested parties may submit comments on the agreement to the Secretary, Federal Maritime Commission, Washington, DC 20573, within twelve days of the date this notice appears in the **Federal Register**. A copy of the agreement is available through the Commission's Web site (*www.fmc.gov*) or by contacting the Office of Agreements at (202)-523–5793 or *tradeanalysis@fmc.gov.*

Agreement No.: 201143–015.

Title: West Coast MTO Agreement.

Parties: APM Terminals Pacific, Ltd.; Eagle Marine Services, Ltd.; Everport Terminal Services, Inc.; International Transportation Service, Inc.; LBCT LLC d/b/a Long Beach Container Terminal LLC; Trapac, Inc.; Total Terminals LLC; West Basin Container Terminal LLC; Yusen Terminals, Inc.; Pacific Maritime Services, L.L.C.; SSA Terminals, LLC; and SSA Terminal (Long Beach), LLC.

Filing Party: Wayne R. Rohde, Esq.; Cozen O'Connor; 1200 19th Street NW.; Washington, DC 20036.

Synopsis: The amendment deletes California United Terminals, Inc. as a party to the Agreement.

Agreement No.: 012490.

Title: APL/SWIRE Guam, Saipan-S. Korea, Japan Slot Charter Agreement.

Parties: American President Lines, LLC; APL Co. Pte Ltd; and The China Navigation Co. Pte Ltd d/b/a/Swire Shipping.

Filing Party: Draughn Arbona; CMA CGM (America) LLC; 5701 Lake Wright Drive; Norfolk, VA 23502.

Synopsis: The Agreement authorizes APL to charter space to SWIRE in the trade between Guam and Saipan, Northern Mariana Islands on the one hand, and ports in South Korea and Japan on the other hand.

By Order of the Federal Maritime Commission.

Dated: September 1, 2017.

JoAnne D. O'Bryant,

Program Analyst.

[FR Doc. 2017–18986 Filed 9–6–17; 8:45 am]

BILLING CODE 6731–AA–P

FEDERAL RESERVE SYSTEM

Agency Information Collection Activities: Announcement of Board Approval Under Delegated Authority and Submission to OMB

AGENCY: Board of Governors of the Federal Reserve System.

SUMMARY: The Board of Governors of the Federal Reserve System (Board) is adopting a proposal to extend for three years, without revision, the mandatory Government-Administered, General-Use Prepaid Card Issuer Survey (FR 3063a; OMB No. 7100–0343) and the voluntary Government-Administered, General-Use Prepaid Card Government Survey (FR 3063b; OMB No. 7100–0343).

On June 15, 1984, the Office of Management and Budget (OMB) delegated to the Board authority under the Paperwork Reduction Act (PRA) to approve of and assign OMB control numbers to collection of information requests and requirements conducted or sponsored by the Board. Board-approved collections of information are incorporated into the official OMB inventory of currently approved collections of information. Copies of the Paperwork Reduction Act Submission, supporting statements and approved collection of information instrument(s) are placed into OMB's public docket files. The Federal Reserve may not conduct or sponsor, and the respondent is not required to respond to, an information collection that has been extended, revised, or implemented on or after October 1, 1995, unless it displays a currently valid OMB control number.

FOR FURTHER INFORMATION CONTACT: Federal Reserve Board Clearance Officer—Nuha Elmaghrabi—Office of the Chief Data Officer, Board of

Governors of the Federal Reserve System, Washington, DC 20551 (202) 452–3829. Telecommunications Device for the Deaf (TDD) users may contact (202) 263–4869, Board of Governors of the Federal Reserve System, Washington, DC 20551.

OMB Desk Officer—Shagufta Ahmed—Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Room 10235, 725 17th Street NW., Washington, DC 20503 or by fax to (202) 395–6974.

Final Approval Under OMB Delegated Authority of the Extension for Three Years, Without Revision, of the Following Report

Report title: Government-Administered, General-Use Prepaid Card Surveys.

Agency form number: FR 3063a and FR 3063b.

OMB control number: 7100–0343.

Frequency: Annual.

Respondents: Issuers of government-administered, general-use prepaid cards (FR 3063a) and governments that administer general-use prepaid card programs (FR 3063b).

Estimated number of respondents: FR 3063a: 25; FR 3063b: 75.

Estimated average hours per response: FR 3063a: 25 hours; FR 3063b: 15 hours.

Estimated annual burden hours: FR 3063a: 625 hours; FR 3063b: 1,125 hours.

General Description of Report: The issuer survey (FR 3063a) collects data from issuers of government-administered, general-use prepaid cards including card program information, cards outstanding, card funding, ATM transactions, purchase transactions, fees paid by issuers to third parties, interchange fees, and cardholder fees. The issuer survey (FR 3063a) is mandatory.

The government survey (FR 3063b) collects data from state governments, the District of Columbia, and U.S. territories (collectively, state governments), and municipal government offices located within the United States (local government offices) that administer general-use prepaid card payment programs.[1] Data collected from government offices include program information, the number of cards outstanding, and funding information. The government survey (FR 3063b) is voluntary.

The Board uses data from these surveys to support an annual report to the Congress on the prevalence of use of general-use prepaid cards in federal, state, and local government-administered payment programs and on the interchange and cardholder fees charged with respect to such use of such cards.

Legal authorization and confidentiality: The Board's Legal Division has determined that both the issuer survey and the government survey are authorized by subsection 920(a) of the Electronic Fund Transfer Act, which was amended by section 1075(a) of the Dodd-Frank Act (15 U.S.C. 1693o–2). This subsection requires the Board to submit an annual report to Congress on the prevalence of the use of general-use prepaid cards in Federal, State or local government-administered payment programs and the interchange transaction fees and cardholder fees charged with respect to the use of such general-use prepaid cards (15 U.S.C. 1693o–2(a)(7)(D)). It also provides the Board with authority to require issuers to provide information to enable the Board to carry out the provisions of the subsection (15 U.S.C. 1693o–2(a)(3)(B)). The obligation of issuers to respond to the issuer survey (FR 3063a) is mandatory. However, the obligation of state governments and local government offices to respond to the government survey (FR 3063b) is voluntary. All of the information collected on the government survey and a limited amount of information collected on the issuer survey is publicly available, and thus, is not accorded confidential treatment. However, most of the information collected on the issuer survey is not publicly available and may be kept confidential under exemption (b)(4) of the Freedom of Information Act (FOIA), which exempts from disclosure ''trade secrets and commercial or financial information obtained from a person and privileged or confidential'' (5 U.S.C. 552(b)(4)). Such data may be kept confidential under exemption 4 if the release of data would cause substantial harm to the competitive position of the issuer. For example, certain issuer survey responses would likely contain information related to an organization's revenue structure and other proprietary and commercial information and the release of such information would cause substantial harm to the competitive position of the issuer.

Current actions: On June 5, 2017, the Board published a notice in the **Federal Register** (82 FR 25801) requesting public comment for 60 days on the proposal to extend, without revision, the FR 3063a and FR 3063b. The comment period for this notice expired on August 4, 2017. The Board did not receive any comments. The information collection will be extended as proposed.

Board of Governors of the Federal Reserve System, September 1, 2017.

Ann E. Misback,

Secretary of the Board.

[FR Doc. 2017–18957 Filed 9–6–17; 8:45 am]

BILLING CODE 6210–01–P

[1] The issuer and government surveys request information on all federal, state, or local government-administered payment programs that provide a general-use prepaid card (or other debit card) disbursement option to payment recipients. The government survey may be distributed to federal government agencies in addition to state and local governments, but collections of information from federal government agencies are not subject to the Paperwork Reduction Act and, thus, are not included in this discussion.

U.S. territories include American Samoa, Guam, Midway Islands, Northern Mariana Islands, Puerto Rico, and U.S. Virgin Islands.

FEDERAL RESERVE SYSTEM

Change in Bank Control Notices; Acquisitions of Shares of a Bank or Bank Holding Company

The notificants listed below have applied under the Change in Bank Control Act (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire shares of a bank or bank holding company. The factors that are considered in acting on the notices are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The notices are available for immediate inspection at the Federal Reserve Bank indicated. The notices also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for that notice or to the offices of the Board of Governors. Comments must be received not later than September 19, 2017.

A. Federal Reserve Bank of Chicago (Colette A. Fried, Assistant Vice President) 230 South LaSalle Street, Chicago, Illinois 60690–1414:

1. *Jennifer S. LeClair, St. Charles, Missouri, Joseph M. Leng, Primghar, Iowa, Jamey M. Rehder, Granville, Iowa, and Jeffrey J. Leng, Primghar, Iowa;* to join the Leng Family Control Group and thereby retain shares of Capital Bancshares, Inc., Primghar, Iowa, and thereby indirectly retain shares of Savings Bank, Primghar, Iowa.

Board of Governors of the Federal Reserve System, August 31, 2017.

Yao-Chin Chao,

Assistant Secretary of the Board.

[FR Doc. 2017–18894 Filed 9–6–17; 8:45 am]

BILLING CODE P

FEDERAL RESERVE SYSTEM

Change in Bank Control Notices; Acquisitions of Shares of a Bank or Bank Holding Company

The notificants listed below have applied under the Change in Bank Control Act (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire shares of a bank or bank holding company. The factors that are considered in acting on the notices are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The notices are available for immediate inspection at the Federal Reserve Bank indicated. The notices also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for that notice or to the offices of the Board of Governors. Comments must be received not later than September 21, 2017.

A. Federal Reserve Bank of Atlanta (Kathryn Haney, Director of Applications) 1000 Peachtree Street NE., Atlanta, Georgia 30309. Comments can also be sent electronically to *Applications.Comments@atl.frb.org:*

1. *Joseph Huntley Johnson III, Birmingham, Alabama, Lawrence Harris Johnson, Birmingham, Alabama, and James Hughes Johnson, Tuscaloosa, Alabama;* to become part of the Johnson Family Control Group and thereby retain voting shares of SNB Holdings, Inc., Slocomb, Alabama, and its subsidiary Friend Bank, Slocomb, Alabama.

Board of Governors of the Federal Reserve System, September 1, 2017.

Ann Misback,

Secretary of the Board.

[FR Doc. 2017–19006 Filed 9–6–17; 8:45 am]

BILLING CODE P

FEDERAL RESERVE SYSTEM

Notice of Proposals To Engage in or To Acquire Companies Engaged in Permissible Nonbanking Activities

The companies listed in this notice have given notice under section 4 of the Bank Holding Company Act (12 U.S.C. 1843) (BHC Act) and Regulation Y, (12 CFR part 225) to engage *de novo,* or to acquire or control voting securities or assets of a company, including the companies listed below, that engages either directly or through a subsidiary or other company, in a nonbanking activity that is listed in § 225.28 of Regulation Y (12 CFR 225.28) or that the Board has determined by Order to be closely related to banking and permissible for bank holding companies. Unless otherwise noted, these activities will be conducted throughout the United States.

Each notice is available for inspection at the Federal Reserve Bank indicated. The notice also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether the proposal complies with the standards of section 4 of the BHC Act.

Unless otherwise noted, comments regarding the applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than September 21, 2017.

A. Federal Reserve Bank of Kansas City (Dennis Denney, Assistant Vice President) 1 Memorial Drive, Kansas City, Missouri 64198–0001:

1. *Stockmens Limited Partnership, Rapid City, South Dakota;* to engage in investment advisory services, by acquiring a 24 percent interest in Rock Creek Advisors, LLC, Rapid City, South Dakota, and thereby engage in investment advisory services pursuant to section 225.28(b)(6) of Regulation Y.

Board of Governors of the Federal Reserve System, September 1, 2017.

Ann Misback,

Secretary of the Board.

[FR Doc. 2017–19007 Filed 9–6–17; 8:45 am]

BILLING CODE P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2015–D–4386]

Deviation Reporting for Human Cells, Tissues, and Cellular and Tissue-Based Products; Guidance for Industry; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice of availability.

SUMMARY: The Food and Drug Administration (FDA or Agency) is announcing the availability of a document entitled ''Deviation Reporting for Human Cells, Tissues, and Cellular and Tissue-Based Products Regulated Solely Under Section 361 of the Public Health Service Act and 21 CFR part 1271; Guidance for Industry.'' The guidance document provides establishments that manufacture non-reproductive human cells, tissues, and cellular and tissue-based products (HCT/Ps), regulated solely under the Public Health Service Act (PHS Act) and under FDA regulations, with recommendations and relevant examples for complying with the requirements to investigate and report HCT/P deviations. The guidance announced in this notice finalizes the draft guidance of the same title dated December 2015.

DATES: Submit either electronic or written comments on Agency guidances at any time.

ADDRESSES: You may submit comments as follows:

Electronic Submissions

Submit electronic comments in the following way:

- *Federal eRulemaking Portal: https://www.regulations.gov.* Follow the instructions for submitting comments. Comments submitted electronically, including attachments, to *https://www.regulations.gov* will be posted to the docket unchanged. Because your comment will be made public, you are solely responsible for ensuring that your comment does not include any confidential information that you or a third party may not wish to be posted, such as medical information, your or anyone else's Social Security number, or confidential business information, such as a manufacturing process. Please note that if you include your name, contact information, or other information that identifies you in the body of your comments, that information will be posted on *https://www.regulations.gov.*
- If you want to submit a comment with confidential information that you do not wish to be made available to the public, submit the comment as a written/paper submission and in the manner detailed (see ''Written/Paper Submissions'' and ''Instructions'').

Written/Paper Submissions

Submit written/paper submissions as follows:

- *Mail/Hand delivery/Courier (for written/paper submissions):* Dockets Management Staff (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.
- For written/paper comments submitted to the Dockets Management Staff, FDA will post your comment, as well as any attachments, except for information submitted, marked and identified, as confidential, if submitted as detailed in ''Instructions.''

Instructions: All submissions received must include the Docket No. FDA–2015–D–4386 for ''Deviation Reporting for Human Cells, Tissues, and Cellular and Tissue-Based Products Regulated Solely Under Section 361 of the Public Health Service Act and 21 CFR part

1271; Guidance for Industry.'' Received comments will be placed in the docket and, except for those submitted as ''Confidential Submissions,'' publicly viewable at *https://www.regulations.gov* or at the Dockets Management Staff between 9 a.m. and 4 p.m., Monday through Friday.

• Confidential Submissions—To submit a comment with confidential information that you do not wish to be made publicly available, submit your comments only as a written/paper submission. You should submit two copies total. One copy will include the information you claim to be confidential with a heading or cover note that states ''THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION.'' The Agency will review this copy, including the claimed confidential information, in its consideration of comments. The second copy, which will have the claimed confidential information redacted/blacked out, will be available for public viewing and posted on *https://www.regulations.gov.* Submit both copies to the Dockets Management Staff. If you do not wish your name and contact information to be made publicly available, you can provide this information on the cover sheet and not in the body of your comments and you must identify this information as ''confidential.'' Any information marked as ''confidential'' will not be disclosed except in accordance with 21 CFR 10.20 and other applicable disclosure law. For more information about FDA's posting of comments to public dockets, see 80 FR 56469, September 18, 2015, or access the information at: *https://www.gpo.gov/fdsys/pkg/FR-2015-09-18/pdf/2015-23389.pdf.*

Docket: For access to the docket to read background documents or the electronic and written/paper comments received, go to *https://www.regulations.gov* and insert the docket number, found in brackets in the heading of this document, into the ''Search'' box and follow the prompts and/or go to the Dockets Management Staff, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.

Submit written requests for single copies of the guidance to the Office of Communication, Outreach and Development, Center for Biologics Evaluation and Research (CBER), Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 71, Rm. 3128, Silver Spring, MD 20993–0002. Send one self-addressed adhesive label to assist the office in processing your requests. The guidance may also be obtained by mail by calling CBER at 1–800–835–4709 or 240–402–8010. See the **SUPPLEMENTARY INFORMATION** section for electronic access to the guidance document.

FOR FURTHER INFORMATION CONTACT: Tami Belouin, Center for Biologics Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 71, Rm. 7301, Silver Spring, MD 20993–0002, 240–402–7911.

SUPPLEMENTARY INFORMATION:

I. Background

FDA is announcing the availability of a document entitled ''Deviation Reporting for Human Cells, Tissues, and Cellular and Tissue-Based Products Regulated Solely Under Section 361 of the Public Health Service Act and 21 CFR part 1271; Guidance for Industry.'' The document provides establishments that manufacture HCT/Ps, regulated solely under section 361 of the PHS Act and the regulations under 21 CFR part 1271, with recommendations and relevant examples for complying with the requirements under 21 CFR 1271.350(b) to investigate and report HCT/P deviations. The examples provided in the guidance are intended to illustrate those HCT/P deviations that have been most frequently reported to FDA, CBER.

The guidance does not apply to reproductive HCT/Ps or to HCT/Ps regulated under 21 CFR part 1270 and recovered before May 25, 2005. The guidance does not apply to healthcare professionals who implant, transplant, infuse, or transfer HCT/Ps into recipients. The guidance also does not apply to HCT/Ps that are regulated as drugs, devices, and/or biological products under section 351 of the PHS Act and/or the Federal Food, Drug, and Cosmetic Act, nor does it apply to investigational HCT/Ps subject to an investigational new drug application or an investigational device exemption.

In the **Federal Register** of December 24, 2015 (80 FR 80364), FDA announced the availability of the draft guidance of the same title dated December 2015. FDA received a few comments on the draft guidance and those comments were considered as the guidance was finalized. A summary of changes includes additional examples and editorial changes to improve clarity. The guidance announced in this notice finalizes the draft guidance dated December 2015.

This guidance is being issued consistent with FDA's good guidance practices regulation (21 CFR 10.115). The guidance represents the current thinking of FDA on ''Deviation Reporting for Human Cells, Tissues, and Cellular and Tissue-Based Products Regulated Solely Under section 361 of the Public Health Service Act and 21 CFR part 1271.'' It does not establish any rights for any person and is not binding on FDA or the public. You can use an alternative approach if it satisfies the requirements of the applicable statutes and regulations. This guidance is not subject to Executive Order 12866.

II. Paperwork Reduction Act of 1995

This guidance refers to previously approved collections of information found in FDA regulations. These collections of information are subject to review by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520). The collections of information in 21 CFR part 1271 have been approved under OMB control number 0910–0543.

III. Electronic Access

Persons with access to the Internet may obtain the guidance at either *https://www.fda.gov/BiologicsBloodVaccines/GuidanceComplianceRegulatoryInformation/Guidances/default.htm* or *https://www.regulations.gov.*

Dated: August 23, 2017.

Anna K. Abram,

Deputy Commissioner for Policy, Planning, Legislation, and Analysis.

[FR Doc. 2017–18737 Filed 9–6–17; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Notice of Listing of Members of the National Institutes of Health's Senior Executive Service 2017 Performance Review Board (PRB)

SUMMARY: The National Institutes of Health (NIH) announces the persons who will serve on the National Institutes of Health's Senior Executive Service 2017 Performance Review Board.

FOR FURTHER INFORMATION CONTACT: For further information about the NIH Performance Review Board, contact the Office of Human Resources, Division of Senior and Scientific Executive Management, National Institutes of Health, Building 2, Room 5E18, Bethesda, Maryland 20892, telephone 301–402–7999 (not a toll-free number).

SUPPLEMENTARY INFORMATION: This action is being taken in accordance with Title 5, U.S.C., Section 4314(c)(4), which requires that members of performance review boards be appointed in a manner to ensure

consistency, stability, and objectivity in performance appraisals and requires that notice of the appointment of an individual to serve as a member be published in the **Federal Register.**

The following persons will serve on the NIH Performance Review Board, which oversees the evaluation of performance appraisals of NIH Senior Executive Service (SES) members:

Alfred Johnson, Chair
Joellen Austin
Michael Gottesman
Richard Ikeda
Michael Lauer
Ellen Rolfes
LaVerne Stringfield
Lawrence Tabak
Timothy Wheeles

Dated: August 30, 2017.

Francis S. Collins,

Director, National Institutes of Health.

[FR Doc. 2017–18899 Filed 9–6–17; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Center for Complementary and Integrative Health; Notice of Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of a meeting of the National Advisory Council for Complementary and Integrative Health.

The meeting will be open to the public as indicated below, with attendance limited to space available. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should notify the Contact Person listed below in advance of the meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Advisory Council for Complementary and Integrative Health

Date: October 6, 2017

Closed: 8:30 a.m. to 9:45 a.m.

Agenda: To review and evaluate grant applications

Place: National Institutes of Health, Building 31, Conference Room 10, 31 Center Drive, Bethesda, MD 20892.

Open: 10:00 a.m. to 3:00 p.m.

Agenda: A report from the Institute Director and other staff.

Place: National Institutes of Health, Building 31, Conference Room 10, 31 Center Drive, Bethesda, MD 20892.

Contact Person: Partap Singh Khalsa, Ph.D., DC, Director, Division of Extramural Activities, National Center for Complementary and Integrative Health, NIH, National Institutes of Health, 6707 Democracy Blvd., Ste. 401, Bethesda, MD 20892–5475, (301) 594–3462, *khalsap@mail.nih.gov.*

Any interested person may file written comments with the committee by forwarding the statement to the Contact Person listed on this notice. The statement should include the name, address, telephone number and when applicable, the business or professional affiliation of the interested person.

In the interest of security, NIH has instituted stringent procedures for entrance onto the NIH campus. All visitor vehicles, including taxicabs, hotel, and airport shuttles will be inspected before being allowed on campus. Visitors will be asked to show one form of identification (for example, a government-issued photo ID, driver's license, or passport) and to state the purpose of their visit.

Information is also available on the Institute's/Center's home page: *https://nccih.nih.gov/about/naccih/,* where an agenda and any additional information for the meeting will be posted when available.

(Catalogue of Federal Domestic Assistance Program Nos. 93.213, Research and Training in Complementary and Integrative Health, National Institutes of Health, HHS)

Dated: August 31, 2017.

Michelle Trout,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2017–18897 Filed 9–6–17; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HOMELAND SECURITY

U.S. Customs and Border Protection

[CBP Dec. 17–11]

Western Hemisphere Travel Initiative: Designation of an Approved Native American Tribal Card Issued by the Pokagon Band of Potawatomi Indians as an Acceptable Document To Denote Identity and Citizenship for Entry in the United States at Land and Sea Ports of Entry

AGENCY: U.S. Customs and Border Protection; DHS.

ACTION: Notice.

SUMMARY: This notice announces that the Commissioner of U.S. Customs and Border Protection is designating an approved Native American Tribal Card issued by the Pokagon Band of Potawatomi Indians (Pokagon Band) to U.S. and Canadian citizens as an acceptable travel document for purposes of the Western Hemisphere Travel Initiative. The approved card may be used to denote identity and citizenship of Pokagon Band members entering the United States from contiguous territory or adjacent islands at land and sea ports of entry.

DATES: This designation will become effective on September 7, 2017.

FOR FURTHER INFORMATION CONTACT: Colleen Manaher, Executive Director, Planning, Program Analysis, and Evaluation, Office of Field Operations, U.S. Customs and Border Protection, via email at *Colleen.M.Manaher@cbp.dhs.gov.*

SUPPLEMENTARY INFORMATION:

Background

The Western Hemisphere Travel Initiative

Section 7209 of the Intelligence Reform and Terrorism Prevention Act of 2004 (IRTPA), Public Law 108–458, as amended, required the Secretary of Homeland Security (Secretary), in consultation with the Secretary of State, to develop and implement a plan to require U.S. citizens and individuals for whom documentation requirements have previously been waived under section 212(d)(4)(B) of the Immigration and Nationality Act (8 U.S.C. 1182(d)(4)(B)) to present a passport or other document or combination of documents as the Secretary deems sufficient to denote identity and citizenship for all travel into the United States. *See* 8 U.S.C. 1185 note. On April 3, 2008, the Department of Homeland Security (DHS) and the Department of State promulgated a joint final rule, effective on June 1, 2009, that implemented the plan known as the Western Hemisphere Travel Initiative (WHTI) at U.S. land and sea ports of entry. *See* 73 FR 18384 (the WHTI Land and Sea Final Rule). It amended various sections of the Code of Federal Regulations (CFR), including 8 CFR 212.0, 212.1, and 235.1. The WHTI Land and Sea Final Rule specifies the documents that U.S. citizens and nonimmigrant aliens from Canada, Bermuda, and Mexico are required to present when entering the United States at land and sea ports of entry.

Under the WHTI Land and Sea Final Rule, one type of citizenship and identity document that may be presented upon entry to the United

States at land and sea ports of entry from contiguous territory or adjacent islands [1] is a Native American Tribal Card that has been designated as an acceptable document to denote identity and citizenship by the Secretary, pursuant to section 7209 of IRTPA. Specifically, 8 CFR 235.1(e), as amended by the WHTI Land and Sea Final Rule, provides that upon designation by the Secretary of Homeland Security of a United States qualifying tribal entity document as an acceptable document to denote identity and citizenship for the purposes of entering the United States, Native Americans may be permitted to present tribal cards upon entering or seeking admission to the United States according to the terms of the voluntary agreement entered between the Secretary of Homeland Security and the tribe. It provides that the Secretary of Homeland Security will announce, by publication of a notice in the **Federal Register**, documents designated under this paragraph. It further provides that a list of the documents designated under this section will also be made available to the public.

A United States qualifying tribal entity is defined as a tribe, band, or other group of Native Americans formally recognized by the United States Government which agrees to meet WHTI document standards.[2] Native American tribal cards are also referenced in 8 CFR 235.1(b), which lists the documents U.S. citizens may use to establish identity and citizenship when entering the United States. *See* 8 CFR 235.1(b)(7).

The Secretary has delegated to the Commissioner of U.S. Customs and Border Protection (CBP) the authority to designate certain documents as acceptable border crossing documents for persons arriving in the United States by land or sea from within the Western Hemisphere, including certain United States Native American tribal cards. *See* DHS Delegation Number 7105 (Revision 00), dated January 16, 2009.

Tribal Card Program

The WHTI Land and Sea Final Rule allowed U.S. federally recognized Native American tribes to work with CBP to enter into agreements to develop tribal ID cards that can be designated as acceptable to establish identity and citizenship when entering the United States at land and sea ports of entry from contiguous territory or adjacent islands. CBP has been working with various U.S. federally recognized Native American tribes to facilitate the development of such cards.[3] As part of the process, CBP will enter into one or more agreements with a U.S. federally recognized tribe that specify the requirements for developing and issuing WHTI-compliant tribal cards, including a testing and auditing process to ensure that the cards are produced and issued in accordance with the terms of the agreements.

After production of the cards in accordance with the specified requirements, and successful testing and auditing by CBP of the cards and program, the Secretary of Homeland Security or the Commissioner of CBP may designate the tribal card as an acceptable WHTI-compliant document for the purpose of establishing identity and citizenship when entering the United States by land or sea from contiguous territory or adjacent islands. Such designation will be announced by publication of a notice in the **Federal Register**. More information about WHTI-compliant documents is available at *www.cbp.gov/travel.*

The Pascua Yaqui Tribe of Arizona became the first Native American tribe to have its tribal card designated as a WHTI-compliant document by the Commissioner of CBP. This designation was announced in a notice published in the **Federal Register** on June 9, 2011 (76 FR 33776). Subsequently, the Commissioner of CBP announced the designation of the tribal cards of the Kootenai Tribe of Idaho, the Seneca Nation of Indians, and the Hydaburg Cooperative Association of Alaska as WHTI-compliant documents. *See* 77 FR 4822 (January 31, 2012), 80 FR 40076 (July 13, 2015) and 81 FR 33686 (May 27, 2016).

Pokagon Band of Potawatomi Indians WHTI-Compliant Tribal Card Program

The Pokagon Band of Potawatomi Indians (Pokagon Band) has voluntarily established a program to develop a WHTI-compliant tribal card that denotes identity and U.S. or Canadian citizenship. On August 16, 2015, the Pokagon Band and CBP signed a Memorandum of Agreement (MOA) to develop, issue, test, and evaluate tribal cards to be used for border crossing purposes. Pursuant to this MOA, the cards are issued to members of the Pokagon Band who can establish identity, tribal membership, and U.S. or Canadian citizenship. The cards incorporate physical security features acceptable to CBP as well as facilitative technology allowing for electronic validation of identity, citizenship, and tribal membership by CBP. On December 9, 2015, CBP and the Pokagon Band also entered into a Service Level Agreement that establishes the technical specifications for the system used to produce and issue the cards.

CBP has tested the cards developed by the Pokagon Band pursuant to the above MOA and Service Level Agreement and has performed an audit of the tribe's card program. On the basis of these tests and audit, CBP has determined that the cards meet the requirements of section 7209 of the IRTPA and are acceptable documents to denote identity and U.S. or Canadian citizenship for purposes of entering the United States at land and sea ports of entry from contiguous territory or adjacent islands.[4] CBP's continued acceptance of the tribal card as a WHTI-compliant document is conditional on compliance with the MOA.

Acceptance and use of the WHTI-compliant tribal card is voluntary for tribe members. If an individual is denied a WHTI-compliant tribal card, he or she may still apply for a passport or other WHTI-compliant document.

Designation

This notice announces that the Commissioner of CBP designates the tribal card issued by the Pokagon Band in accordance with the MOA and the Service Level Agreement between the tribe and CBP as an acceptable WHTI-compliant document pursuant to section 7209 of the IRTPA and 8 CFR 235.1(e). In accordance with these provisions, the approved card, if valid and lawfully obtained, may be used to denote identity and U.S. or Canadian citizenship of Pokagon Band members for the purposes of entering the United States from contiguous territory or adjacent islands at land and sea ports of entry.

[1] Adjacent islands is defined in 8 CFR 212.0 as Bermuda and the islands located in the Caribbean Sea, except Cuba. This definition applies to 8 CFR 212.1 and 235.1.

[2] *See* 8 CFR 212.0. This definition applies to 8 CFR 212.1 and 235.1.

[3] The Native American tribal cards qualifying to be a WHTI-compliant document for border crossing purposes are commonly referred to as ''Enhanced Tribal Cards'' or ''ETCs.''

[4] The Native American Tribal Card issued by the Pokagon Band may not, by itself, be used by Canadian citizen tribal members to establish that they meet the requirements of section 289 of the Immigration and Nationality Act (INA) [8 U.S.C. 1359]. INA section 289 provides that nothing in Title II of the INA shall be construed to affect the right of American Indians born in Canada to pass the borders of the United States, but such right shall extend only to persons who possess at least 50 per centum of blood of the American Indian race. While the tribal card may be used to establish a card holder's identity for purposes of INA section 289, it cannot, by itself, serve as evidence of the card holder's Canadian birth or that he or she possesses at least 50% American Indian blood, as required by INA section 289.

Dated: September 1, 2017.

Kevin K. McAleenan,

Acting Commissioner.

[FR Doc. 2017–18999 Filed 9–6–17; 8:45 am]

BILLING CODE 9111–14–P

DEPARTMENT OF HOMELAND SECURITY

U.S. Customs and Border Protection

[Docket No. USCBP–2017–0030]

U.S. Customs and Border Protection User Fee Advisory Committee (UFAC) Charter Renewal

AGENCY: U.S. Customs and Border Protection, Department of Homeland Security (DHS).

ACTION: Committee management; notice of Federal Advisory Committee charter renewal.

SUMMARY: The Department of Homeland Security (DHS) renewed the charter for the U.S. Customs and Border Protection's User Fee Advisory Committee (UFAC) on June 22, 2017. The charter will expire on June 22, 2019.

FOR FURTHER INFORMATION CONTACT: Ms. Sonja Grant, Office of Trade Relations, U.S. Customs and Border Protection, 1300 Pennsylvania Avenue NW., Room 3.5A, Washington, DC 20229; telephone (202) 344–1440; facsimile (202) 325–4290.

SUPPLEMENTARY INFORMATION:

Name of committee: U.S. Customs and Border Protection User Fee Advisory Committee (UFAC).

Purpose and objective: The charter of the U.S. Customs and Border Protection User Fee Advisory Committee (UFAC) was renewed for two years in accordance with the Federal Advisory Committee Act (FACA) 5 U.S.C. Appendix. A copy of the charter can be found at *http://www.cbp.gov/trade/stakeholder-engagement/user-fee-advisory-committee.* UFAC is tasked with providing advice to the Secretary of the Department of Homeland Security through the Commissioner of U.S. Customs and Border Protection on matters related to the performance of inspections coinciding with the assessment of an agriculture, customs, or immigration user fee.

Duration: The committee's charter was renewed on June 22, 2017, and expires on June 22, 2019.

Responsible CBP officials: Mr. Bradley Hayes, Office of Trade Relations, U.S. Customs and Border Protection, 1300 Pennsylvania Avenue NW., Room 3.5A, Washington, DC 20229; telephone (202) 344–1440.

Dated: August 28, 2017.

Bradley Hayes,

Executive Director, Office of Trade Relations.

[FR Doc. 2017–19000 Filed 9–6–17; 8:45 am]

BILLING CODE 9111–14–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Docket ID FEMA–2017–0002]

Final Flood Hazard Determinations

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Final Notice.

SUMMARY: Flood hazard determinations, which may include additions or modifications of Base Flood Elevations (BFEs), base flood depths, Special Flood Hazard Area (SFHA) boundaries or zone designations, or regulatory floodways on the Flood Insurance Rate Maps (FIRMs) and where applicable, in the supporting Flood Insurance Study (FIS) reports have been made final for the communities listed in the table below.

The FIRM and FIS report are the basis of the floodplain management measures that a community is required either to adopt or to show evidence of having in effect in order to qualify or remain qualified for participation in the Federal Emergency Management Agency's (FEMA's) National Flood Insurance Program (NFIP). In addition, the FIRM and FIS report are used by insurance agents and others to calculate appropriate flood insurance premium rates for buildings and the contents of those buildings.

DATES: The effective date of October 5, 2017 which has been established for the FIRM and, where applicable, the supporting FIS report showing the new or modified flood hazard information for each community.

ADDRESSES: The FIRM, and if applicable, the FIS report containing the final flood hazard information for each community is available for inspection at the respective Community Map Repository address listed in the tables below and will be available online through the FEMA Map Service Center at *www.msc.fema.gov* by the effective date indicated above.

FOR FURTHER INFORMATION CONTACT: Rick Sacbibit, Chief, Engineering Services Branch, Federal Insurance and Mitigation Administration, FEMA, 400 C Street SW., Washington, DC 20472, (202) 646–7659, or (email) *patrick.sacbibit@fema.dhs.gov;* or visit the FEMA Map Information eXchange (FMIX) online at *www.floodmaps.fema.gov/fhm/fmx_main.html.*

SUPPLEMENTARY INFORMATION: The Federal Emergency Management Agency (FEMA) makes the final determinations listed below for the new or modified flood hazard information for each community listed. Notification of these changes has been published in newspapers of local circulation and 90 days have elapsed since that publication. The Deputy Associate Administrator for Insurance and Mitigation has resolved any appeals resulting from this notification.

This final notice is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4104, and 44 CFR part 67. FEMA has developed criteria for floodplain management in floodprone areas in accordance with 44 CFR part 60.

Interested lessees and owners of real property are encouraged to review the new or revised FIRM and FIS report available at the address cited below for each community or online through the FEMA Map Service Center at *www.msc.fema.gov.*

The flood hazard determinations are made final in the watersheds and/or communities listed in the table below.

(Catalog of Federal Domestic Assistance No. 97.022, ''Flood Insurance.'')

Dated: August 10, 2017.

Roy E. Wright,

Deputy Associate Administrator for Insurance and Mitigation, Department of Homeland Security, Federal Emergency Management Agency.

Community	Community map repository address
Lafayette County, Florida and Incorporated Areas Docket No.: FEMA–B–1616	
Unincorporated Areas of Lafayette County	Lafayette County Building Department, 120 West Main Street, Mayo, FL 32066.
Palm Beach County, Florida and Incorporated Areas Docket No.: FEMA–B–1447	
City of Atlantis	City Hall, 260 Orange Tree Drive, Atlantis, FL 33462.
City of Belle Glade	City Hall, 110 Dr. Martin Luther King Jr. Boulevard West, Belle Glade, FL 33430.
City of Boca Raton	City Hall, 201 West Palmetto Park Road, Boca Raton, FL 33432.
City of Boynton Beach	City Hall, 100 East Boynton Beach Boulevard, Boynton Beach, FL 33435.
City of Delray Beach	City Hall, 100 Northwest 1st Avenue, Delray Beach, FL 33444.
City of Greenacres	City Hall, 5800 Melaleuca Lane, Greenacres, FL 33463.
City of Lake Worth	Community Sustainability Department, 1900 Second Avenue North, Lake Worth, FL 33461.
City of Pahokee	City Hall, 207 Begonia Drive, Pahokee, FL 33476.
City of Palm Beach Gardens	City Hall, 10500 North Military Trail, Palm Beach Gardens, FL 33410.
City of Riviera Beach	Community Development Department, 600 West Blue Heron Boulevard, Riviera Beach, FL 33404.
City of South Bay	City Hall, 335 Southwest 2nd Avenue, South Bay, FL 33493.
City of West Palm Beach	City Hall, Development Services Department, 401 Clematis Street, West Palm Beach, FL 33401.
Town of Briny Breezes	Town Hall, 4802 North Ocean Boulevard, Briny Breezes, FL 33435.
Town of Cloud Lake	Cloud Lake Town Hall, 100 Lang Road, West Palm Beach, FL 33406.
Town of Glen Ridge	Glen Ridge Town Hall, 1501 Glen Road, West Palm Beach, FL 33406.
Town of Gulf Stream	Town Hall, 100 Sea Road, Gulf Stream, FL 33483.
Town of Haverhill	Town Hall, 4585 Charlotte Street, Haverhill, FL 33417.
Town of Highland Beach	Building Department, 3616 South Ocean Boulevard, Highland Beach, FL 33487.
Town of Hypoluxo	Town Hall, 7580 South Federal Highway, Hypoluxo, FL 33462.
Town of Juno Beach	Town Center, 340 Ocean Drive, Juno Beach, FL 33408.
Town of Jupiter	Town Hall, 210 Military Trail, Jupiter, FL 33458.
Town of Jupiter Inlet Colony	Town Administration Building, 50 Colony Road, Jupiter Inlet Colony, FL 33469.
Town of Lake Clarke Shores	Town Hall, 1701 Barbados Road, Lake Clarke Shores, FL 33406.
Town of Lake Park	Town Hall, 535 Park Avenue, Lake Park, FL 33403.
Town of Lantana	Building Department, 318 South Dixie Highway, Lantana, FL 33462.
Town of Loxahatchee Groves	Town Hall, 155 F Road, Loxahatchee Groves, FL 33470.
Town of Manalapan	Building Department, 600 South Ocean Boulevard, Manalapan, FL 33462.
Town of Mangonia Park	Municipal Center, 1755 East Tiffany Drive, Mangonia Park, FL 33407.
Town of Ocean Ridge	Town Hall, 6450 North Ocean Boulevard, Ocean Ridge, FL 33435.
Town of Palm Beach	Town Hall, 360 South County Road, Palm Beach, FL 33480.
Town of Palm Beach Shores	Town Hall, 247 Edwards Lane, Palm Beach Shores, FL 33404.
Town of South Palm Beach	Town Hall, 3577 South Ocean Boulevard, South Palm Beach, FL 33480.
Unincorporated Areas of Palm Beach County	Palm Beach County Planning, Zoning and Building Department, 2300 North Jog Road, West Palm Beach, FL 33411.
Village of Golf	Village Hall, 21 Country Road, Village of Golf, FL 33436.
Village of North Palm Beach	Community Development Department, 420 US Highway 1, Suite 21, North Palm Beach, FL 33408.
Village of Palm Springs	Village Center Complex, 226 Cypress Lane, Palm Springs, FL 33461.
Village of Royal Palm Beach	Village Hall, 1050 Royal Palm Beach Boulevard, Royal Palm Beach, FL 33411.
Village of Tequesta	Village Hall, 345 Tequesta Drive, Tequesta, FL 33469.
Village of Wellington	Municipal Complex, 12300 Forest Hill Boulevard, Wellington, FL 33414.
Lincoln County, South Dakota and Incorporated Areas Docket No.: FEMA–B–1613	
Unincorporated Areas of Lincoln County	Lincoln County Planning and Zoning Department, 104 North Main Street, Suite 220, Canton, SD 57013.
Minnehaha County, South Dakota and Incorporated Areas Docket No.: FEMA–B–1613	
City of Sioux Falls	City Hall, Planning and Building Services Department, 224 West 9th Street, Sioux Falls, SD 57101.
Unincorporated Areas of Minnehaha County	Minnehaha County Planning Department, 415 North Dakota Avenue, Sioux Falls, SD 57104.

[FR Doc. 2017–18916 Filed 9–6–17; 8:45 am]
BILLING CODE 9110–12–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Docket ID FEMA–2017–0002; Internal Agency Docket No. FEMA–B–1743]

Changes in Flood Hazard Determinations

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice.

SUMMARY: This notice lists communities where the addition or modification of Base Flood Elevations (BFEs), base flood depths, Special Flood Hazard Area (SFHA) boundaries or zone designations, or the regulatory floodway (hereinafter referred to as flood hazard determinations), as shown on the Flood Insurance Rate Maps (FIRMs), and where applicable, in the supporting Flood Insurance Study (FIS) reports, prepared by the Federal Emergency Management Agency (FEMA) for each community, is appropriate because of new scientific or technical data. The FIRM, and where applicable, portions of the FIS report, have been revised to reflect these flood hazard determinations through issuance of a Letter of Map Revision (LOMR), in accordance with Title 44, Part 65 of the Code of Federal Regulations (44 CFR part 65). The LOMR will be used by insurance agents and others to calculate appropriate flood insurance premium rates for new buildings and the contents of those buildings. For rating purposes, the currently effective community number is shown in the table below and must be used for all new policies and renewals.

DATES: These flood hazard determinations will become effective on the dates listed in the table below and revise the FIRM panels and FIS report in effect prior to this determination for the listed communities.

From the date of the second publication of notification of these changes in a newspaper of local circulation, any person has 90 days in which to request through the community that the Deputy Associate Administrator for Insurance and Mitigation reconsider the changes. The flood hazard determination information may be changed during the 90-day period.

ADDRESSES: The affected communities are listed in the table below. Revised flood hazard information for each community is available for inspection at both the online location and the respective community map repository address listed in the table below. Additionally, the current effective FIRM and FIS report for each community are accessible online through the FEMA Map Service Center at *www.msc.fema.gov* for comparison.

Submit comments and/or appeals to the Chief Executive Officer of the community as listed in the table below.

FOR FURTHER INFORMATION CONTACT: Rick Sacbibit, Chief, Engineering Services Branch, Federal Insurance and Mitigation Administration, FEMA, 400 C Street SW., Washington, DC 20472, (202) 646–7659, or (email) *patrick.sacbibit@fema.dhs.gov;* or visit the FEMA Map Information eXchange (FMIX) online at *www.floodmaps.fema.gov/fhm/fmx_main.html.*

SUPPLEMENTARY INFORMATION: The specific flood hazard determinations are not described for each community in this notice. However, the online location and local community map repository address where the flood hazard determination information is available for inspection is provided.

Any request for reconsideration of flood hazard determinations must be submitted to the Chief Executive Officer of the community as listed in the table below.

The modifications are made pursuant to section 201 of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4105, and are in accordance with the National Flood Insurance Act of 1968, 42 U.S.C. 4001 *et seq.,* and with 44 CFR part 65.

The FIRM and FIS report are the basis of the floodplain management measures that the community is required either to adopt or to show evidence of having in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

These flood hazard determinations, together with the floodplain management criteria required by 44 CFR 60.3, are the minimum that are required. They should not be construed to mean that the community must change any existing ordinances that are more stringent in their floodplain management requirements. The community may at any time enact stricter requirements of its own or pursuant to policies established by other Federal, State, or regional entities. The flood hazard determinations are in accordance with 44 CFR 65.4.

The affected communities are listed in the following table. Flood hazard determination information for each community is available for inspection at both the online location and the respective community map repository address listed in the table below. Additionally, the current effective FIRM and FIS report for each community are accessible online through the FEMA Map Service Center at *www.msc.fema.gov* for comparison.

(Catalog of Federal Domestic Assistance No. 97.022, ''Flood Insurance.'')

Dated: August 10, 2017.

Roy E. Wright,

Deputy Associate Administrator for Insurance and Mitigation, Department of Homeland Security, Federal Emergency Management Agency.

State and county	Location and case No.	Chief executive officer of community	Community map repository	Online location of letter of map revision	Effective date of modification	Community No.
Arizona:						
Maricopa	Town of Fountain Hills (17–09–0546P).	The Honorable Linda M. Kavanagh, Mayor, Town of Fountain Hills, 16705 East Avenue of the Fountains, Fountain Hills, AZ 85268.	Town Hall, 16836 East Palisades Boulevard, Fountain Hills, AZ 85268.	*http://www.msc.fema.gov/lomc*	Nov. 24, 2017 ..	040135
Mohave	Unincorporated Areas of Mohave County, (17–09–0550P).	The Honorable Gary Watson, Chairman, Board of Supervisors, Mohave County, 700 West Beale Street, Kingman, AZ 8640.	Mohave County Administration Building, 700 West Beale Street, Kingman, AZ 8640.	*http://www.msc.fema.gov/lomc*	Nov. 24, 201	04005

State and county	Location and case No.	Chief executive officer of community	Community map repository	Online location of letter of map revision	Effective date of modification	Community No.
Florida: Duval	City of Jacksonville (17–04–3389P).	The Honorable Lenny Curry, Mayor, City of Jacksonville, City Hall at St. James Building, 117 West Duval Street Suite 400, Jacksonville, FL 3220.	City Hall, 117 West Duval Street, Jacksonville, FL 3220.	*http://www.msc.fema.gov/lomc*	Nov. 2, 2017	120077
New Jersey: Ocean.	Borough of Mantoloking, (17–02–1077P).	The Honorable George C. Nebel, Mayor, Borough of Mantoloking, 340 Drum Point Road Second Floor, Brick, NJ 0872.	Mantoloking Borough Municipal Building, 202 Downer Avenue, Mantoloking, NJ 0873.	*http://www.msc.fema.gov/lomc*	Nov. 10, 201	34038
Tennessee: Williamson.	City of Franklin (17–04–2518P).	The Honorable Ken Moore, Mayor, City of Franklin, 109 3rd Avenue South, Franklin, TN 3706.	City Hall, Code Department, 109 3rd Avenue South, Franklin, TN 3706.	*http://www.msc.fema.gov/lomc*	Oct. 27, 201	47020
Texas:						
Collin	City of Garland (17–06–2211P).	The Honorable Douglas Athas, Mayor, City of Garland, 200 North 5th Street, Garland, TX 7504.	City Hall, 800 Main Street, Garland, TX 7504.	*http://www.msc.fema.gov/lomc*	Nov. 9, 201	48547
Collin	City of Plano (17–06–2211P).	The Honorable Harry LaRosiliere, Mayor, City of Plano, 1520 K Avenue, Plano, TX 7507.	City Hall Engineering Department, 1520 K Avenue, Plano, TX 7507.	*http://www.msc.fema.gov/lomc*	Nov. 9, 201	48014
Collin	City of Richardson (17–06–2211P).	The Honorable Paul Voelker, Mayor, City of Richardson, 411 West Arapaho Road, Richardson, TX 7508.	Civic Center/City Hall, 411 West Arapaho Road, Room 204, Richardson, TX 7508.	*http://www.msc.fema.gov/lomc*	Nov. 9, 201	480184

[FR Doc. 2017–18913 Filed 9–6–17; 8:45 am]

BILLING CODE 9110–12–P

DEPARTMENT OF HOMELAND SECURITY

Transportation Security Administration

Intent To Request Extension From OMB of One Current Public Collection of Information: Airport Security Part 1542

AGENCY: Transportation Security Administration, DHS.

ACTION: 60-day notice.

SUMMARY: The Transportation Security Administration (TSA) invites public comment on one currently approved Information Collection Request (ICR), Office of Management and Budget (OMB) control number 1652–0002, abstracted below that we will submit to OMB for an extension in compliance with the Paperwork Reduction Act (PRA). The ICR will describe the nature of the information collection and its expected burden. TSA airport security programs require airport operators to submit certain information to TSA, as well as to maintain and update records to ensure compliance with security provisions.

DATES: Send your comments by November 6, 2017.

ADDRESSES: Comments may be emailed to *TSAPRA@dhs.gov* or delivered to the TSA PRA Officer, Office of Information Technology (OIT), TSA–11, Transportation Security Administration, 601 South 12th Street, Arlington, VA 20598–6011.

FOR FURTHER INFORMATION CONTACT: Christina A. Walsh at the above address, or by telephone (571) 227–2062.

SUPPLEMENTARY INFORMATION:

Comments Invited

In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), an agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a valid OMB control number. The ICR documentation will be made available at *http://www.reginfo.gov* upon its submission to OMB. Therefore, in preparation for OMB review and approval of the following information collection, TSA is soliciting comments to—

(1) Evaluate whether the proposed information requirement is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agency's estimate of the burden;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including using appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

Consistent with the requirements of Executive Order (EO) 13771, Reducing Regulation and Controlling Regulatory Costs, and EO 13777, Enforcing the Regulatory Reform Agenda, TSA is also requesting comments on the extent to which this request for information could be modified to reduce the burden on respondents.

Information Collection Requirement

OMB Control Number 1652–0002; Airport Security Part 1542. The information collection is used to determine compliance with 49 CFR part 1542 [1] and to ensure passenger safety and security by monitoring airport operator security procedures. The following information collections and other recordkeeping requirements, with which respondent-covered airport

[1] In July 2016, OMB approved TSA's request to revise OMB Control Number 1652–0002, by including in it the recordkeeping requirements under OMB Control Number 1652–0006, Employment Standards, which also applies to 49 CFR part 1542. This combined two previously-approved ICRs into this single request to simplify TSA collections, increase transparency, and reduce duplication.

operators must comply, fall under this OMB control number: (1) Development of an Airport Security Program (ASP) and submission to TSA; (2) submission of ASP amendments to TSA when applicable; (3) collection of data necessary to complete a criminal history records check (CHRC) for those individuals with unescorted access authority to a Security Identification Display Area (SIDA); (4) submission to TSA of identifying information about individuals to whom the airport operator has issued identification media, such as name, address, and country of birth, in order for TSA to conduct a Security Threat Assessment (STA); (5) information collection and recordkeeping requirements associated with airport operator compliance with Security Directives (SDs) issued pursuant to the regulation; and (6) watch list matching of individuals subject to TSA's regulatory requirements against government watch lists.

This information collection is mandatory for covered airport operators. As part of their security programs, covered airport operators are required to maintain and update, as necessary, records of compliance with the security program provisions set forth in 49 CFR part 1542. This regulation also requires covered airport operators to make their security programs and associated records available for inspection and copying by TSA to verify compliance with transportation security regulations.

As required by 49 CFR part 1542, covered airport operators must ensure that individuals seeking unescorted access authority submit information for and receive a CHRC. Also, covered airport operators must ensure that all individuals to whom it issues an airport identification medium submit information so that TSA can conduct an STA. As part of this process, the individual must provide identifying information, including fingerprints. Additionally, airport operators must maintain these records and make them available to TSA for inspection and copying upon request.

TSA will continue to collect information to determine airport operator compliance with other requirements of 49 CFR part 1542. TSA estimates that there will be approximately 438 airport operator respondents to the information collection requirements described above, with a total annual burden estimate of approximately 1,618,268 hours. This is a difference from the 2016 ICR submission which had an annual burden of 1,657,102. The reduction is due to the number of airport operator respondents varying with the federalization and defederalization of airports.

Dated: August 31, 2017.

Christina A. Walsh,

TSA Paperwork Reduction Act Officer, Office of Information Technology.

[FR Doc. 2017–18923 Filed 9–6–17; 8:45 am]

BILLING CODE 9110–05–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[Docket No. FWS–HQ–IA–2017–0048; FXIA16710900000–156–FF09A30000]

Foreign Endangered Species; Issuance of Permits

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of issuance of permits.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service), have issued the following permits to conduct certain activities with endangered species, marine mammals, or both. We issue these permits under the Endangered Species Act (ESA).

ADDRESSES: Documents and other information submitted with these applications are available for review, subject to the requirements of the Privacy Act and Freedom of Information Act, by any party who submits a written request for a copy of such documents to the U.S. Fish and Wildlife Service, Division of Management Authority, Branch of Permits, MS: IA, 5275 Leesburg Pike, Falls Church, VA 22041; fax (703) 358–2281. To locate the **Federal Register** notice that announced our receipt of the application for each permit listed in this document, go to *www.regulations.gov* and search on the permit number provided in the tables in **SUPPLEMENTARY INFORMATION**.

FOR FURTHER INFORMATION CONTACT: Joyce Russell, (703) 358–2023 (telephone); (703) 358–2281 (fax); or *DMAFR@fws.gov* (email).

SUPPLEMENTARY INFORMATION: On the dates below, as authorized by the provisions of the ESA, as amended (16 U.S.C. 1531 *et seq.*), we issued requested permits subject to certain conditions set forth therein. For each permit for an endangered species, we found that (1) the application was filed in good faith, (2) the granted permit would not operate to the disadvantage of the endangered species, and (3) the granted permit would be consistent with the purposes and policy set forth in section 2 of the ESA.

ENDANGERED SPECIES

Permit No.	Applicant	Receipt of application **Federal Register** notice	Permit issuance date
15011C	Ruth Ella Linsky	82 FR 14741; March 22, 2017	May 10, 2017.
09742C	Turtle Back Zoo	82 FR 14741; March 22, 2017	May 24, 2017.
120045	Yale Peabody Museum	82 FR 17028; April 7, 2017	June 21, 2017.
21399C	Rare Species Conservatory Foundation	82 FR 17028; April 7, 2017	June 21, 2017.
694912	Zoological Society of San Diego/San Diego Zoo	82 FR 17028; April 7, 2017	June 21, 2017.

Availability of Documents

Documents and other information submitted with these applications are available for review, subject to the requirements of the Privacy Act and Freedom of Information Act, by any party who submits a written request for a copy of such documents to: U.S. Fish and Wildlife Service, Division of Management Authority, Branch of Permits, MS: IA, 5275 Leesburg Pike, Falls Church, VA 22041; fax (703) 358–2281.

Authority: We issue this notice under the authority of the ESA, as amended (16 U.S.C. 1531 *et seq.*).

Joyce Russell,

Government Information Specialist, Branch of Permits, Division of Management Authority.

[FR Doc. 2017–19002 Filed 9–6–17; 8:45 am]

BILLING CODE 4333–15–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[FWS–R8–ES–2017–N040; FXES11130800000–178–FF08EVEN00]

Low-Effect Habitat Conservation Plan for the San Lorenzo Valley Water District's Probation Tank Replacement Project in Felton, Santa Cruz County, California

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of availability; request for comment.

SUMMARY: We, the U.S. Fish and Wildlife Service, have received an application from the San Lorenzo Valley Water District for a 20-year incidental take permit under the Endangered Species Act of 1973, as amended (Act). The application addresses the potential for ''take'' of the federally endangered Mount Hermon June beetle and Zayante band-winged grasshopper that is likely to occur incidental to the replacement of a water storage tank and infrastructure at the existing water storage tank site in Felton, Santa Cruz County, California. We invite comments from the public on the application package, which includes a low-effect habitat conservation plan.

DATES: To ensure consideration, please send your written comments by October 10, 2017.

ADDRESSES: You may download a copy of the habitat conservation plan, draft environmental action statement and low-effect screening form, and related documents on the Internet at *http://www.fws.gov/ventura/,* or you may request copies of the documents by U.S. mail to our Ventura office or by phone (see **FOR FURTHER INFORMATION CONTACT**). Please address written comments to Stephen P. Henry, Field Supervisor, Ventura Fish and Wildlife Office, U.S. Fish and Wildlife Service, 2493 Portola Road, Suite B, Ventura, CA 93003. You may alternatively send comments by facsimile to (805) 644–3958.

FOR FURTHER INFORMATION CONTACT: Chad Mitcham, Fish and Wildlife Biologist, by U.S. mail to the Ventura office, or by telephone at (831) 768–7794.

SUPPLEMENTARY INFORMATION: We have received an application from the San Lorenzo Valley Water District for a 20-year incidental take permit under the Act. The application addresses the potential for ''take'' of the federally endangered Mount Hermon June beetle (*Polyphylla barbata*) and Zayante band-winged grasshopper (*Trimerotropis infantilis*) likely to occur incidental to the replacement of a water storage tank and infrastructure on the San Lorenzo Valley Water District's easement at 3650 Graham Hill Road, (APN: 061–371–16), Felton, Santa Cruz County, California. We invite comments from the public on the application package, which includes a low-effect habitat conservation plan. This proposed action has been determined to be eligible for a categorical exclusion under the National Environmental Policy Act of 1969 (NEPA), as amended.

Background

The U.S. Fish and Wildlife Service (Service) listed the Mount Hermon June beetle and Zayante band-winged grasshopper as endangered on January 24, 1997 (62 FR 3616). Section 9 of the Act (16 U.S.C. 1531 *et seq.*) and its implementing regulations prohibit the take of fish or wildlife species listed as endangered or threatened. ''Take'' is defined under the Act to include the following activities: ''to harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect, or to attempt to engage in any such conduct'' (16 U.S.C. 1532); however, under section 10(a)(1)(B) of the Act, we may issue permits to authorize incidental take of listed species. The Act defines ''Incidental Take'' as take that is not the purpose of carrying out of an otherwise lawful activity. Regulations governing incidental take permits for threatened and endangered species are provided at 50 CFR 17.32 and 17.22, respectively. Issuance of an incidental take permit must not jeopardize the existence of federally listed fish, wildlife, or plant species.

Take of listed plants is not prohibited under the Act unless such take would violate State law. As such, take of plants cannot be authorized under an incidental take permit. Plant species may be included on a permit in recognition of the conservation benefits provided them under a habitat conservation plan. All species, including plants, covered by the incidental take permit receive assurances under our ''No Surprises'' regulations (50 CFR 17.22(b)(5) and 17.32(b)(5)). In addition to meeting other specific criteria, actions undertaken through implementation of the habitat conservation plan (HCP) must not jeopardize the continued existence of federally listed animal or plant species.

Applicant's Proposal

The San Lorenzo Valley Water District (hereafter, the applicant) has submitted a low-effect HCP in support of their application for an incidental take permit (ITP) to address take of the Mount Hermon June beetle and Zayante band-winged grasshopper that is likely to occur as the result of direct impacts on up to 0.432-acre (ac) (18,800 square feet (sf)) of sandhills habitat occupied by the species. Take would be associated with the replacement of an existing water storage tank and infrastructure on an existing parcel legally described as Assessor Parcel Number: 061–371–16. The current site address is 3650 Graham Hill Road in Felton, Santa Cruz County, California. The applicant is requesting a permit for take of Mount Hermon June beetle and Zayante band-winged grasshopper that would result from ''covered activities'' that are related to replacement of the existing water tank.

The HCP's conservation strategy also addresses potential impacts to the federally endangered Ben Lomond spineflower (*Chorizanthe pungens* var. *pungens*) and Ben Lomond wallflower (*Erysimum teretifolium*), which are known to occur at the proposed project site or within the proposed conservation easement area. The applicant's conservation strategy, in part, proposes the dedication of a conservation easement on 6.7 ac of habitat that contains habitat for all four of the species addressed in the HCP. A 20-year incidental take permit is requested to authorize take that would occur incidental to the water storage tank replacement project, and also to cover potential short-term impacts to all four species within the conservation easement area as a result of habitat enhancement.

The applicant proposes to avoid, minimize, and mitigate impacts to the Mount Hermon June beetle, Zayante band-winged grasshopper, Ben Lomond wallflower, and Ben Lomond spineflower associated with the covered activities by fully implementing the HCP. The following measures will be implemented: (1) Temporary fencing and signs will be installed to clearly delineate the boundaries of the project; (2) if construction occurs during the flight season (considered to be between May and August, annually), exposed soils will be covered with erosion control fabric or other impervious materials to prevent any dispersing Mount Hermon June beetles from burrowing into exposed soil at the construction site; (3) employment of a Service-approved entomologist to capture and relocate into suitable habitat and out of harm's way any Mount Hermon June beetle unearthed or observed during construction activities; (4) employment of a Service-approved biologist to ensure Zayante band-winged grasshoppers disperse from the

proposed project area prior to ground disturbing activities; (5) collecting seed of the Ben Lomond spineflower within the project area prior to the initiation of ground disturbing activities, so that the seeds can be used in the post-construction restoration of temporarily-disturbed areas; and (6) permanently protect habitat for the Mount Hermon June beetle, Zayante band-winged grasshopper, Ben Lomond spineflower, and Ben Lomond wallflower to mitigate for habitat impacts through the permanent protection of 0.995-ac of high quality habitat within the proposed 6.7-ac conservation easement; or, the purchase of 0.813-ac of conservation credits at the Zayante Sandhills Conservation Bank. The applicant will fund up to $346,064 to ensure implementation of all minimization measures, monitoring, and reporting requirements identified in the HCP.

In the proposed HCP, the applicant considers two alternatives to the proposed action: ''No Action'' and ''Redesign Project.'' Under the ''No Action'' alternative, an ITP for the water tank replacement project would not be issued. The proposed conservation strategy and subsequent habitat conservation would not occur, or, alternatively, the purchase of conservation credits would not be provided to effect recovery actions for the impacted species. The ''No Action'' alternative would not result in necessary improvements to the existing water tank and would not result in a net benefit for the covered species; therefore, the ''No Action'' alternative has been rejected. Under the ''Redesign Project'' alternative, the existing tank would be replaced with a new smaller tank that would fit within the existing footprint, with temporary impacts occurring within an approximately 0.12-ac area. Under this alternative the new tank would not provide enough water storage for fire and/or other emergencies in addition to meeting existing water demand. Under this alternative the District would permanently protect and manage a smaller area within the conservation easement, or purchase fewer credits at the Zayante Sandhills Conservation Bank. This alternative would present a significant burden to the District without significantly reducing potential impacts to the impacted species; therefore, the ''Redesign Project'' alternative has also been rejected.

Our Preliminary Determination

We are requesting comments on our preliminary determination that the applicant's proposal will have a minor or negligible effect on the Mount Hermon June beetle, Zayante band-winged grasshopper, Ben Lomond spineflower, and Ben Lomond wallflower, and that the plan qualifies as a low-effect HCP as defined by our Habitat Conservation Planning Handbook. We base our determinations on three criteria: (1) Implementation of the proposed project as described in the HCP would result in minor or negligible effects on federally listed, proposed, and/or candidate species and their habitats; (2) implementation of the HCP would result in minor or negligible effects on other environmental values or resources; and (3) HCP impacts, considered together with those of other past, present, and reasonably foreseeable future projects, would not result in cumulatively significant effects. In our analysis of these criteria, we have made a preliminary determination that the approval of the HCP and issuance of an ITP qualify for categorical exclusion under NEPA (42 U.S.C. 4321 *et seq.*), as provided by the Department of the Interior implementing regulations in part 46 of title 43 of the Code of Federal Regulations (43 CFR 46.205, 46.210, and 46.215). However, based upon our review of public comments that we receive in response to this notice, this preliminary determination may be revised.

Next Steps

We will evaluate the permit application, including the plan and comments we receive, to determine whether the application meets the requirements of section 10(a)(1)(B) of the Act. We will also evaluate whether issuance of the ITP would comply with section 7(a)(2) of the Act by conducting an intra-Service Section 7 consultation.

Public Review

We provide this notice under section 10(c) of the Act and the National Environmental Policy Act of 1969, as amended (NEPA), and NEPA's public involvement regulations (40 CFR 1500.1(b), 1500.2(d), and 1506.6). We are requesting comments on our determination that the applicants' proposal will have a minor or neglible effect on the Mount Hermon June beetle, Zayante band-winged grasshopper, Ben Lomond spineflower, and Ben Lomond wallflower, and that the plan qualifies as a low-effect HCP as defined by our Habitat Conservation Planning Handbook. We will evaluate the permit application, including the plan and comments we receive, to determine whether the application meets the requirements of section 10(a)(1)(B) of the Act. We will use the results of our internal Service consultation, in combination with the above findings, in our final analysis to determine whether to issue the permits. If the requirements are met, we will issue an ITP to the applicant for the incidental take of Mount Hermon June beetle and Zayante band-winged grasshopper. We will make the final permit decision no sooner than 30 days after the date of this notice.

Public Comments

If you wish to comment on the permit applications, plans, and associated documents, you may submit comments by any one of the methods in **ADDRESSES**.

Public Availability of Comments

Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public view, we cannot guarantee that we will be able to do so.

Authority

We provide this notice under section 10 of the Act (16 U.S.C. 1531 *et seq.*) and NEPA regulations (40 CFR 1506.6).

Dated: August 31, 2017.

Stephen P. Henry,

Field Supervisor, Ventura Fish and Wildlife Office, Ventura, California.

[FR Doc. 2017–18970 Filed 9–6–17; 8:45 am]

BILLING CODE 4333–15–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[FWS–R5–FR–2017–N106; FF05F24400–167–FXFR13350500000; OMB Control Number 1018–0127]

Agency Information Collection Activities; Horseshoe Crab and Cooperative Fish Tagging Programs

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of information collection; request for comment.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, we, the U.S. Fish and Wildlife Service (Service) are proposing to renew an information collection with revisions.

DATES: Interested persons are invited to submit comments on or before November 6, 2017.

ADDRESSES: Send your comments on the information collection request (ICR) by mail to the Service Information Collection Clearance Officer, U.S. Fish and Wildlife Service, MS: BPHC, 5275 Leesburg Pike, Falls Church, VA 22041–3803 (mail); or by email to *Info_Coll@fws.gov.* Please reference OMB Control Number 1018–0127 in the subject line of your comments.

FOR FURTHER INFORMATION CONTACT: To request additional information about this ICR, contact Madonna L. Baucum, Service Information Collection Clearance Officer, by email at *Info_Coll@fws.gov,* or by telephone at (703) 358–2503.

SUPPLEMENTARY INFORMATION: In accordance with the Paperwork Reduction Act of 1995, we provide the general public and other Federal agencies with an opportunity to comment on new, proposed, revised, and continuing collections of information. This helps us assess the impact of our information collection requirements and minimize the public's reporting burden. It also helps the public understand our information collection requirements and provide the requested data in the desired format.

We are soliciting comments on the proposed ICR that is described below. We are especially interested in public comment addressing the following issues: (1) Is the collection necessary to the proper functions of the Service; (2) will this information be processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how might the Service enhance the quality, utility, and clarity of the information to be collected; and (5) how might the Service minimize the burden of this collection on the respondents, including through the use of information technology.

Comments that you submit in response to this notice are a matter of public record. We will include or summarize each comment in our request to OMB to approve this ICR. Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Abstract: The Maryland Fish & Wildlife Conservation Office (MDFWCO) will collect information on fishes captured by the public. Tag information provided by the public will be used to estimate recreational and commercial harvest rates, estimate natural mortality rates, and evaluate migratory patterns, length and age frequencies, and effectiveness of current regulations.

Horseshoe crabs play a vital role commercially, biomedically, and ecologically along the Atlantic coast. Horseshoe crabs are commercially harvested and used as bait in eel and conch fisheries. Biomedical companies along the coast also collect and bleed horseshoe crabs at their facilities. Limulus amebocyte lysate, derived from crab blood, is used by pharmaceutical companies to test sterility of products. Finally, migratory shorebirds also depend on the eggs of horseshoe crabs to refuel on their migrations from South America to the Arctic. One bird in particular, the rufa red knot (Calidris canutus rufa), feeds primarily on horseshoe crab eggs during its stopover. Effective January 12, 2015, the rufa red knot was listed as threatened under the Endangered Species Act (79 FR 73706; December 11, 2014).

In 1998, the Atlantic States Marine Fisheries Commission (ASMFC), a management organization with representatives from each State on the Atlantic Coast, developed a horseshoe crab management plan. The ASMFC plan and its subsequent addenda established mandatory State-by-State harvest quotas, and created the 1,500-square-mile Carl N. Shuster, Jr., Horseshoe Crab Sanctuary off the mouth of Delaware Bay.

Restrictive measures have been taken in recent years, but populations are increasing slowly. Because horseshoe crabs do not breed until they are 9 years or older, it may take some time before the population measurably increases. Federal and State agencies, universities, and biomedical companies participate in a Horseshoe Crab Cooperative Tagging Program. The Service's MDFWCO maintains the information collected under this program and uses it to evaluate migratory patterns, survival, and abundance of horseshoe crabs.

Agencies that tag and release the crabs complete FWS Form 3–2311 (Horseshoe Crab Tagging) and provide the Service with:

- Organization name.
- Contact person name.
- Tag number.
- Sex of crab.
- Prosomal width.
- Capture site, latitude, longitude, waterbody, State, and date.

Members of the public who recover tagged crabs provide the following information using FWS Form 3–2310 (Horseshoe Crab Recapture Report):

- Tag number.
- Whether or not tag was removed.
- Whether the tag was circular or square.
- Condition of crab.
- Date captured/found.
- Crab fate.
- Finder type.
- Capture method.
- Capture location.
- Reporter information.
- Comments.

At the request of the public participant reporting the tagged crab, we send data pertaining to the tagging program and tag and release information on the horseshoe crab that was found or captured.

We propose a revision to this existing collection of information to include four forms currently in use which are used by the Service:

- Form 3–2493, ''American Shad Recapture Report'';
- Form 3–2494, ''Snakehead Recapture Report'';
- Form 3–2495, ''Striped Bass Recapture Report''; and,
- Form 3–2496, ''Sturgeon Recapture Report.''

Fish will be tagged with an external tag containing a toll-free number that is housed at MDFWCO. Members of the public reporting a tag will be asked a series of questions pertaining to the fish that they are referencing. This data will be used by fisheries managers throughout the east coast and mid-Atlantic region, depending on species.

Currently the species that are tagged are Striped Bass (Morone saxatilis), Atlantic (Acipenser oxyrinchus) and Shortnose Sturgeon (Acipenser brevirostrum), Northern Snakehead (Channa argus), and American Shad (Alosa sapidissima). Striped Bass are cooperatively managed by federal and state agencies through the Atlantic States Marine Fisheries Commission (ASMFC). The ASMFC uses fish tag return data to conduct stock assessments for Striped Bass. The database and collection is housed within MDFWCO, while the tagging is conducted by state agencies participating in Striped Bass management. Without this data collection Striped Bass management would likely suffer from a lack of quality data.

Sturgeon are tagged by federal, state, and university biologists, and NGO's along the U.S. east coast and into Canada, and throughout the U.S. and Canada. Local populations of Atlantic sturgeon have been listed as either threatened or endangered since 2012

and shortnose populations since 1973. The information collected provides data on tag retention and sturgeon movement along the east coast. The data is also used to address some of the management and research needs identified by the ASMFC Amendment 1 to the Atlantic Sturgeon Fishery Management Plan.

Northern Snakehead is an invasive species found in many watersheds throughout the mid-Atlantic region. It has been firmly established in the Potomac River since at least 2004. Federal and state biologists within the Potomac River watershed have been tasked with managing the impacts of Northern Snakehead. Tagging of Northern Snakehead is used to learn more about the species so that control efforts can be better informed. Tagging is also used to estimate population sizes to monitor fluctuations in population size. Recreational and commercial fishers reporting tags provide information on catch rates and migration patterns as well.

American Shad are tagged by the NY Department of Environmental Conservation (NYDEC) and they retain all fish tagging information. The public reports tags to MDFWCO, who provides information on tag returns to NYDEC. Tag return data are used to monitor migration and abundance of shad along the Atlantic Coast.

Data collected across these tagging programs is similar in nature, including: Tag number, date of capture, waterbody of capture, capture method, fish length, fish weight, fish fate (whether released or killed), fisher type (*i.e.,* commercial, recreational, etc.). In addition, if the tag reporter desires more information on their tagged fish or wants the modest reward that comes with reporting a tag, we ask their address so that we can mail them the information.

Title of Collection: Horseshoe Crab and Cooperative Fish Tagging Programs.

OMB Control Number: 1018–0127.

Form Number: FWS Forms 3–2310, 3–2311, and 3–2493 through 3–2496.

Type of Review: Revision of a currently approved collection.

Respondents/Affected Public: Respondents include Federal and State agencies, universities, and biomedical companies who conduct tagging and members of the general public provide recapture information.

Total Estimated Number of Annual Respondents: 1,987.

Total Estimated Number of Annual Responses: 3,656.

Estimated Completion Time per Response: Varies from 5 minutes to 95 hours, depending on activity.

Total Estimated Number of Annual Burden Hours: 2,682 (rounded).

Respondent's Obligation: Voluntary.

Frequency of Collection: Respondents will provide information on occasion, upon tagging or upon encounter with a tagged crab or fish.

Total Estimated Annual Nonhour Burden Cost: None.

An agency may not conduct or sponsor and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number.

The authority for this action is the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

Dated: August 31, 2017.

Madonna L. Baucum,

Information Collection Clearance Officer, U.S. Fish and Wildlife Service.

[FR Doc. 2017–18934 Filed 9–6–17; 8:45 am]

BILLING CODE 4333–15–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[LLES961000 L14400000 BK0000 17X]

Notice of Filing of Plats Survey; Eastern States

AGENCY: Notice of official filing.

SUMMARY: The Bureau of Land Management (BLM) Eastern States Office is publishing this notice to inform the public of the intent to officially file the survey plat listed below, and afford a proper period of time to protest this action prior to the plat filing. During this time, the plat will be available for review in the BLM Eastern States Office. The surveys, which were executed at the request of the Bureau of Indian Affairs and the BLM, are necessary for the management of these lands.

DATES: Unless there are protests of this action, the filing of the plat described in this notice will be filed on October 10, 2017.

ADDRESSES: BLM Eastern States Office, 20 M Street SE., Suite 950, Washington DC, 20003.

FOR FURTHER INFORMATION CONTACT: Leon Chmura, Acting Chief Cadastral Surveyor for Eastern States; (202) 912–7760. Bureau of Land Management, Eastern States Office, 20 M Street SE., Suite 950, Washington DC, 20003. Attn: Cadastral Survey. Persons who use a telecommunications device for the deaf (TDD) may call the Federal Relay Service (FRS) at 1–800–877–8339 to contact the above individual during normal business hours. The FRS is available 24 hours a day, 7 days a week, to leave a message or question with the above individual. You will receive a reply during normal business hours.

SUPPLEMENTARY INFORMATION: A person or party who wishes to protest a survey must file a notice that they wish to protest with the Chief, Branch of Cadastral Survey. A statement of reasons for a protest may be filed with the notice of protest and must be filed with the Chief, Branch of Cadastral Survey within 30 days after the protest is filed. If a protest against the survey is received prior to the date of official filing, the filing will be stayed pending consideration of the protest. A plat will not be officially filed until the day after all protests have been dismissed or otherwise resolved. Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment including your personal identifying information may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

The Bureau of Indian Affairs requested this survey in Township 7 North, Range 10 East, Choctaw Meridian, Mississippi for the management of trust lands.

The plat of survey represents the dependent resurvey of a portion of the subdivisional lines; the survey of the subdivision of sections 14 and 23; and the metes and bounds survey of parcels held in trust for the Mississippi Band of Choctaw in sections 14 and 23 of Township 7 North, Range 10 East, of the Choctaw Meridian, in the state of Mississippi, and was accepted September 30th, 2016. A copy of the described plat will be placed in the open files, and available to the public as a matter of information.

Leon Chmura,

Acting Chief Cadastral Surveyor.

[FR Doc. 2017–18959 Filed 9–6–17; 8:45 am]

BILLING CODE 4310–GJ–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–WASO–NRNHL–24008; PPWOCRADI0, PCU00RP14.R50000]

National Register of Historic Places; Notification of Pending Nominations and Related Actions

AGENCY: National Park Service, Interior.

ACTION: Notice.

SUMMARY: The National Park Service is soliciting comments on the significance of properties nominated before August 12, 2017, for listing or related actions in the National Register of Historic Places.

DATES: Comments should be submitted by September 22, 2017.

ADDRESSES: Comments may be sent via U.S. Postal Service and all other carriers to the National Register of Historic Places, National Park Service, 1849 C St. NW., MS 7228, Washington, DC 20240.

SUPPLEMENTARY INFORMATION: The properties listed in this notice are being considered for listing or related actions in the National Register of Historic Places. Nominations for their consideration were received by the National Park Service before August 12, 2017. Pursuant to section 60.13 of 36 CFR part 60, written comments are being accepted concerning the significance of the nominated properties under the National Register criteria for evaluation.

Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Nominations submitted by State Historic Preservation Officers:

ARKANSAS

Crawford County

Pernot, Henry ''Harry'' Charles, House, 119 Fayetteville Rd., Van Buren, SG100001646

Crittenden County

Johnson—Portis House, 400 N. Avalon St., West Memphis, SG100001648

Faulkner County

Scull Historic District, 428 & 432 Conway Blvd., Conway, SG100001647

Jefferson County

Bain, Jewel, House No. 4, 27 Longmeadow, Pine Bluff, SG100001649

Montgomery County

Arkansas Research and Test Station (ARTS), Address Restricted, addo Gap vicinity, SG100001650

Pulaski County

Kennedy, Dr. Charles H., House, 6 Edenwood Ln., North Little Rock, SG100001651

West—Blazer House, 8107 Peters Rd., Jacksonville, SG100001652

IDAHO

Latah County

Fort Russell Neighborhood Historic District (Boundary Increase), Roughly bounded by Jefferson, E. D, Hays & E. 3rd Sts., Moscow, BC100001654

MISSOURI

Jackson County

Kansas City Public Library and Board of Education Building, 1211 McGee St., Kansas City, SG100001350

OHIO

Cuyahoga County

Erieview Tower, 1322 E. 12th St., Cleveland, SG100001655

VERMONT

Windsor County

Advent Camp Meeting Grounds Historic District, 150 Advent Ln., Hartford, SG100001656

WISCONSIN

Brown County

St. Norbert College Historic District, Bounded by Grant & Marsh Sts., Lee J. Roemer Mall & W. shore of Fox R. De Pere, SG100001658

A request for removal has been made for the following resource:

VIRGINIA

Isle of Wight County

Wolftrap Farm, NW of Smithfield off VA 627, Smithfield vicinity, OT74002132

Additional documentation has been received for the following resource:

IDAHO

Idaho County

Yawwinma Traditional Cultural Property, 143 Rapid River Rd., Riggins vicinity, AD100001053

Authority: 60.13 of 36 CFR part 60.

Dated: August 15, 2017.

J. Paul Loether,

Chief, National Register of Historic Places/ National Historic Landmarks Program and Keeper, National Register of Historic Places.

[FR Doc. 2017–18921 Filed 9–6–17; 8:45 am]

BILLING CODE 4312–52–P

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993—Members of SGIP 2.0, Inc.

Notice is hereby given that, on July 20, 2017, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* (''the Act''), Members of SGIP 2.0, Inc. (''MSGIP 2.0'') has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, Spark Cognition, Austin, TX; and Steve Ray Consulting, Menlo Park, CA, have been added as parties to this venture.

Also, Ameren Services, St. Louis, MO; Artis Energy (Formerly NXEGEN LLC), Middletown, CT; Carnegie Mellon University, Pittsburgh, PA; Consumer Electronics Association, Arlington, VA; Elevate Energy, Chicago, IL; India Smart Grid Forum, New Delhi, INDIA; Korea Smart Grid Institute, Seoul, REPUBLIC OF KOREA; Lawrence Berkeley National Laboratory (LBNL), Berkeley, CA; NEXTera Energy, Juno Beach, FL; Oracle Utilities (Formerly Opower), Arlington, VA; PJM Interconnection, Norristown, PA; Public Utilities Commission of Ohio, Columbus, OH; Rebecca Herold and Associates, Van Meter, IA; Reilly Associates, Red Bank, NJ; Smart Grid Operations Consulting, Sunnyvale, CA; Softgrids, Puteaux, FRANCE; Sustainable Resources Management, Toronto, CANADA; Telecommunications Technology Association, Gyeonggi-do, REPUBLIC OF KOREA; Tri-County Electric Cooperative, Inc., Hooker, OK; and Wedin Communications, Plymouth, MN, have withdrawn as parties to this venture.

No other changes have been made in either the membership or planned activity of the group research project. Membership in this group research project remains open, and MSGIP 2.0 intends to file additional written notifications disclosing all changes in membership.

On February 5, 2013, MSGIP 2.0 filed its original notification pursuant to Section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to Section 6(b) of the Act on March 7, 2013 (78 FR 14836).

The last notification was filed with the Department on February 24, 2017. A notice was published in the **Federal Register** pursuant to Section 6(b) of the Act on March 27, 2017 (82 FR 15238).

Patricia A. Brink,

Director of Civil Enforcement, Antitrust Division.

[FR Doc. 2017–18993 Filed 9–6–17; 8:45 am]

BILLING CODE P

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993—The National Institute for Innovation in Manufacturing Biopharmaceuticals

Notice is hereby given that, on July 18, 2017, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* (''the Act''), the University of Delaware, doing business as The National Institute for Innovation in Manufacturing Biopharmaceuticals (''NIIMBL''), has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing (1) the identities of the parties to the venture and (2) the nature and objectives of the venture. The notifications were filed for the purpose of invoking the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances.

Pursuant to Section 6(b) of the Act, the identities of the parties to the venture are: University of Delaware, Newark, DE; Purdue University, West Lafayette, IN; North Carolina State University, Raleigh, NC; Rensselaer Polytechnic Institute, Troy, NY; Johns Hopkins University, Baltimore, MD; Regents of University of Minnesota, Minneapolis, MN; National Institute for Pharmaceutical Technology and Education, Inc., Minneapolis, MN; University of Massachusetts, Lowell, MA; Southwest Research Institute, San Antonio, TX; Tulane University, New Orleans, LA; UNCW Research Foundation, or its assignee University of North Carolina at Wilmington, Wilmington, NC; Carnegie Mellon University, Pittsburgh, PA; East Carolina University, Greenville, NC; University of Georgia Research Foundation, Athens, GA; Texas A&M University System, College Station, TX; Clemson University, Clemson, SC; The Pennsylvania State University, University Park, PA; Georgia Tech Research Corporation, Atlanta, GA; Massachusetts Institute of Technology, Cambridge, MA; University of Maryland College Park, College Park, MD; Worcester Polytechnic Institute, Worcester, MA; Genentech, San Francisco, CA; Stratophase LP, Romsey, UNITED KINGDOM; Chromatan Corporation, State College, PA; ILC Dover LP, Frederica, DE; Sudhin Biopharma Co., Superior, CO; Artemis Biosystems, Inc., Cambridge, MA; Commissioning Agents, Indianapolis, IN; Unum Therapeutics, Inc., Cambridge, MA; RoosterBio, Inc., Avondale, PA; University of Maryland Baltimore, Baltimore, MD; Forsyth Technical Community College, Winston-Salem, NC; University of Pennsylvania, Philadelphia, PA; Celgene Corporation, Summit, NJ; North Carolina Central University, Durham, NC; Massachusetts Life Sciences Center, Waltham, MA; North Carolina Biotechnology Center, Research Triangle Park, NC; Akron Biotechnology, LLC, Boca Raton, FL; and Accugenomics, Inc., Wilmington, NC. The general area of NIIMBL's planned activity is to engage in collaborative activities with the goals of: (a) Accelerating biopharmaceutical manufacturing innovation, (b) supporting the development of standards that enable more efficient and rapid manufacturing capabilities, and (c) educating and training a world-leading biopharmaceutical manufacturing workforce. Additional information about NIIMBL can be obtained from Dr. Kelvin Lee, Institute Director, NIIMBL, 15 Innovation Way, Newark, DE 19711, *info@niimbl.org* and (302) 831–3716.

Patricia A. Brink,

Director of Civil Enforcement, Antitrust Division.

[FR Doc. 2017–18992 Filed 9–6–17; 8:45 am]

BILLING CODE P

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993—Node.js Foundation

Notice is hereby given that, on August 14, 2017, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* (''the Act''), Node.js Foundation (''Node.js Foundation'') has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, BitRock, Inc. d/b/a Bitnami, San Francisco, CA, has been added as a party to this venture.

Also, Sphinx Co. Ltd., Hanoi, VIETNAM, has withdrawn as a party to this venture.

No other changes have been made in either the membership or planned activity of the group research project. Membership in this group research project remains open, and Node.js Foundation intends to file additional written notifications disclosing all changes in membership.

On August 17, 2015, Node.js Foundation filed its original notification pursuant to Section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to Section 6(b) of the Act on September 28, 2015 (80 FR 58297).

The last notification was filed with the Department on May 26, 2017. A notice was published in the **Federal Register** pursuant to Section 6(b) of the Act on June 20, 2017 (82 FR 28092).

Patricia A. Brink,

Director of Civil Enforcement, Antitrust Division.

[FR Doc. 2017–18991 Filed 9–6–17; 8:45 am]

BILLING CODE P

DEPARTMENT OF LABOR

Employee Benefits Security Administration

188th Meeting of the Advisory Council on Employee Welfare and Pension Benefit Plans; Notice of Teleconference Meeting

Pursuant to the authority contained in Section 512 of the Employee Retirement Income Security Act of 1974 (ERISA), 29 U.S.C. 1142, the 188th open meeting of the Advisory Council on Employee Welfare and Pension Benefit Plans (also known as the ERISA Advisory Council) will be held as a teleconference on September 25, 2017.

The meeting will take place in C5521 Room 4, U.S. Department of Labor, 200 Constitution Avenue NW., Washington, DC 20210. Public access is available only in this room (*i.e.* not by telephone). The meeting will run from 10:00 a.m. to approximately 3:00 p.m. The purpose of the open meeting is to discuss reports/recommendations for the Secretary of Labor on the issues of (1) Reducing the Burden and Increasing the Effectiveness of Mandated Disclosures with respect to Employment-Based Health Benefit Plans in the Private Sector, and (2) Mandated Disclosure for Retirement Plans—Enhancing Effectiveness for Participants and Sponsors. Descriptions of these topics are available on the Advisory Council page of the EBSA Web site at *http://www.dol.gov/ebsa/aboutebsa/erisa_advisory_council.html.*

Organizations or members of the public wishing to submit a written statement may do so by submitting 30 copies on or before September 18, 2017 to Larry Good, Executive Secretary, ERISA Advisory Council, U.S.

Department of Labor, Suite N–5623, 200 Constitution Avenue NW., Washington, DC 20210. Statements also may be submitted as email attachments in rich text, Word, or pdf format transmitted to *good.larry@dol.gov.* It is requested that statements not be included in the body of an email. Statements deemed relevant by the Advisory Council and received on or before September 18 will be included in the record of the meeting and will be available to anyone by contacting the EBSA Public Disclosure Room. Do not include any personally identifiable information (such as name, address, or other contact information) or confidential business information that you do not want publicly disclosed.

Individuals or representatives of organizations wishing to address the Advisory Council should forward their requests to the Executive Secretary or telephone (202) 693–8668. Oral presentations will be limited to ten minutes, time permitting, but an extended statement may be submitted for the record. Individuals with disabilities who need special accommodations should contact the Executive Secretary by September 18, 2017 at the address indicated.

Signed at Washington, DC, this 31st day of August 2017.

Timothy D. Hauser,

Deputy Assistant Secretary for Program Operations, Employee Benefits Security Administration.

[FR Doc. 2017–18955 Filed 9–6–17; 8:45 am]

BILLING CODE 4510–29–P

DEPARTMENT OF LABOR

Office of the Secretary

Agency Information Collection Activities; Submission for OMB Review; Comment Request; Reemployment of Unemployment Insurance Benefit Recipients

ACTION: Notice.

SUMMARY: The Department of Labor (DOL) is submitting the Employment and Training Administration (ETA) sponsored information collection request (ICR) titled, ''Reemployment of Unemployment Insurance Benefit Recipients,'' to the Office of Management and Budget (OMB) for review and approval for continued use, without change, in accordance with the Paperwork Reduction Act of 1995 (PRA). Public comments on the ICR are invited.

DATES: The OMB will consider all written comments that agency receives on or before October 10, 2017.

ADDRESSES: A copy of this ICR with applicable supporting documentation; including a description of the likely respondents, proposed frequency of response, and estimated total burden may be obtained free of charge from the RegInfo.gov Web site at *http://www.reginfo.gov/public/do/PRAViewICR?ref_nbr=201706-1205-002* (this link will only become active on the day following publication of this notice) or by contacting Michel Smyth by telephone at 202–693–4129, TTY 202–693–8064, (these are not toll-free numbers) or by email at *DOL_PRA_PUBLIC@dol.gov.*

Submit comments about this request by mail to the Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for DOL–ETA, Office of Management and Budget, Room 10235, 725 17th Street NW., Washington, DC 20503; by Fax: 202–395–5806 (this is not a toll-free number); or by email: *OIRA_submission@omb.eop.gov.* Commenters are encouraged, but not required, to send a courtesy copy of any comments by mail or courier to the U.S. Department of Labor-OASAM, Office of the Chief Information Officer, Attn: Departmental Information Compliance Management Program, Room N1301, 200 Constitution Avenue NW., Washington, DC 20210; or by email: *DOL_PRA_PUBLIC@dol.gov.*

FOR FURTHER INFORMATION CONTACT: Contact Michel Smyth by telephone at 202–693–4129, TTY 202–693–8064, (these are not toll-free numbers) or by email at *DOL_PRA_PUBLIC@dol.gov.*

SUPPLEMENTARY INFORMATION: This ICR seeks to extend PRA authority for the Reemployment of Unemployment Insurance Benefit Recipients information collection. This information is collected at the State level, via electronic reporting Form ETA–9047, to determine the percentage of individuals who become reemployed in the calendar quarter subsequent to the quarter in which they received their first unemployment insurance (UI) payment. The data are used to measure performance under the Government Performance and Results Act of 1993, with the goal of facilitating reemployment of UI claimants. Social Security Act section 303(a)(6) authorizes this information collection. *See* 42 U.S.C. 503(a)(6).

This information collection is subject to the PRA. A Federal agency generally cannot conduct or sponsor a collection of information, and the public is generally not required to respond to an information collection, unless it is approved by the OMB under the PRA and displays a currently valid OMB Control Number. In addition, notwithstanding any other provisions of law, no person shall generally be subject to penalty for failing to comply with a collection of information that does not display a valid Control Number. *See* 5 CFR 1320.5(a) and 1320.6. The DOL obtains OMB approval for this information collection under Control Number 1205–0452.

OMB authorization for an ICR cannot be for more than three (3) years without renewal, and the current approval for this collection is scheduled to expire on September 30, 2017. The DOL seeks to extend PRA authorization for this information collection for three (3) more years, without any change to existing requirements. The DOL notes that existing information collection requirements submitted to the OMB receive a month-to-month extension while they undergo review. For additional substantive information about this ICR, see the related notice published in the **Federal Register** on March 15, 2017 (82 FR 13856).

Interested parties are encouraged to send comments to the OMB, Office of Information and Regulatory Affairs at the address shown in the **ADDRESSES** section within thirty (30) days of publication of this notice in the **Federal Register**. In order to help ensure appropriate consideration, comments should mention OMB Control Number 1205–0452. The OMB is particularly interested in comments that:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

Agency: DOL–ETA.

Title of Collection: Reemployment of Unemployment Insurance Benefit Recipients.

OMB Control Number: 1205–0452.

Affected Public: 53.

Total Estimated Number of Respondents: 53.

Total Estimated Number of Responses: 212.

Total Estimated Annual Time Burden: 2,120 hours.

Total Estimated Annual Other Costs Burden: $0.

Authority: 44 U.S.C. 3507(a)(1)(D).

Dated: August 28, 2017.

Michel Smyth,

Departmental Clearance Officer.

[FR Doc. 2017–18926 Filed 9–6–17; 8:45 am]

BILLING CODE 4510–FW–P

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice: 17–060]

NASA Federal Advisory Committees

AGENCY: National Aeronautics and Space Administration.

ACTION: Annual invitation for public nominations by U.S. citizens for service on NASA Federal advisory committees.

SUMMARY: NASA announces its annual invitation for public nominations for service on NASA Federal advisory committees. U.S. citizens may submit self-nominations for consideration as potential members of NASA's Federal advisory committees. NASA's Federal advisory committees have member vacancies from time to time throughout the year, and NASA will consider self-nominations to fill such intermittent vacancies. NASA is committed to selecting members to serve on its Federal advisory committees based on their individual expertise, knowledge, experience, and current/past contributions to the relevant subject area.

DATES: The deadline for NASA receipt of all public nominations is September 30, 2017.

ADDRESSES: Self-nominations from interested U.S. citizens must be sent electronically to NASA in letter form, be signed, and must include the name of specific NASA Federal advisory committee of interest for NASA consideration. Self-nomination letters are limited to specifying interest in only one (1) NASA Federal advisory committee per year. The following additional information is required to be attached to each self-nomination letter (*i.e.,* cover letter): (1) Professional resume (one-page maximum); (2) professional biography (one-page maximum). Please submit the self-nomination package as a single package containing cover letter and both required attachments to *hq-nasanoms@mail.nasa.gov.* All public self-nomination packages must be submitted electronically via email to NASA; paper-based documents sent through postal mail (hard-copies) will not be accepted. **Note:** Nomination letters that are noncompliant with the directions above and do not include the two (2) mandatory documents listed will not receive further consideration by NASA.

FOR FURTHER INFORMATION CONTACT: To view advisory committee charters and obtain further information on NASA's Federal advisory committees, please visit the NASA Advisory Committee Management Division Web site noted below. For any questions, please contact Ms. Marla King, Advisory Committee Specialist, Advisory Committee Management Division, Office of International and Interagency Relations, NASA Headquarters, Washington, DC 20546, (202) 358–1148.

SUPPLEMENTARY INFORMATION: NASA's eleven (11) Federal advisory committees chartered under the Federal Advisory Committee Act (FACA) are listed below. The individual advisory committee charters may be found on the NASA Advisory Committee Management Division's Web site at *https://oiir.hq.nasa.gov/acmd.html:*

- *Aerospace Safety Advisory Panel*
- *Applied Sciences Advisory Committee*
- *International Space Station Advisory Committee*
- *International Space Station National Laboratory Advisory Committee*
- *NASA Advisory Council* (**Note:** All nominations for the NASA Advisory Council must indicate the specific entity of interest, *i.e.,* either the Council or one of its five (5) Committees.)
- *National Space-Based Positioning, Navigation and Timing Advisory Board*
- *Astrophysics Advisory Committee*
- *Earth Science Advisory Committee*
- *Heliophysics Advisory Committee*
- *Planetary Science Advisory Committee*
- *Human Exploration and Operations Research Advisory Committee*

Patricia D. Rausch,

Advisory Committee Management Officer, National Aeronautics and Space Administration.

[FR Doc. 2017–18919 Filed 9–6–17; 8:45 am]

BILLING CODE 7510–13–P

OVERSEAS PRIVATE INVESTMENT CORPORATION

Submission for OMB Review

AGENCY: Overseas Private Investment Corporation (OPIC).

ACTION: Notice and request for comments.

SUMMARY: Under the provisions of the Paperwork Reduction Act, agencies are required to publish a Notice in the **Federal Register** notifying the public that the agency has prepared an information collection for OMB review and approval and has requested public review and comment on the submission. Comments are being solicited on the need for the information; the accuracy of the Agency's burden estimate; the quality, practical utility, and clarity of the information to be collected; and ways to minimize reporting the burden, including automated collected techniques and uses of other forms of technology.

Minor revisions are being made to improve the clarity of the questions and to allow the optional submission of additional information.

DATES: Comments must be received within 60 calendar-days of publication of this Notice.

ADDRESSES: Direct comments and requests for copies of the subject form to the Agency Submitting Officer: James Bobbitt, Records Manager, Overseas Private Investment Corporation, 1100 New York Avenue NW., Washington, DC 20527.

FOR FURTHER INFORMATION CONTACT: *Agency Submitting Officer:* James Bobbitt, Records Manager, (202) 336–8558.

SUPPLEMENTARY INFORMATION:

Summary Form Under Review

Type of Request: Revision of currently approved information collection.

Title: Aligned Capital Investee Opt-In.

Form Number: OPIC–255.

Frequency of Use: Once per investor per project.

Type of Respondents: Business or other institution.

Standard Industrial Classification Codes: All.

Description of Affected Public: Companies investing overseas.

Reporting Hours: 37.5 hours (.5 hours per project).

Number of Responses: 75 per year.

Federal Cost: $0.

Authority for Information Collection: Sections 231 and 239(d) of the Foreign Assistance Act of 1961, as amended.

Abstract (Needs and Uses): The Aligned Capital Investee Opt-In is a document used by companies seeking investments or grant funding to place their information into OPIC's Aligned Capital Program. The Aligned Capital Program is a pilot program that OPIC has designed to align development

finance with other capital, including philanthropic, socially responsible and impact investment, to enable effective deployment of that capital towards projects in the countries and sectors in which OPIC works.

Dated: September 1, 2017.

Nichole Skoyles,

Administrative Counsel, Administrative Affairs, Department of Legal Affairs.

[FR Doc. 2017–18968 Filed 9–6–17; 8:45 am]

BILLING CODE P

OVERSEAS PRIVATE INVESTMENT CORPORATION

Submission for OMB Review

AGENCY: Overseas Private Investment Corporation (OPIC).

ACTION: Notice and request for comments.

SUMMARY: Under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35), agencies are required to publish a Notice in the **Federal Register** notifying the public that the agency has prepared an information collection for OMB review and approval and has requested public review and comment on the submission. Comments are being solicited on the need for the information; the accuracy of the Agency's burden estimate; the quality, practical utility, and clarity of the information to be collected; and ways to minimize reporting the burden, including automated collected techniques and uses of other forms of technology.

Minor revisions are being made to improve the clarity of the questions and to allow the optional submission of additional information.

DATES: Comments must be received within 60 calendar-days of publication of this Notice.

ADDRESSES: Direct comments and requests for copies of the subject form to the Agency Submitting Officer: James Bobbitt, Records Manager, Overseas Private Investment Corporation, 1100 New York Avenue NW., Washington, DC 20527.

FOR FURTHER INFORMATION CONTACT: Agency Submitting Officer: James Bobbitt, Records Manager, (202) 336–8558.

SUPPLEMENTARY INFORMATION:

Summary Form Under Review

Type of Request: Revision of currently approved information collection.

Title: Aligned Capital Investor Screener.

Form Number: OPIC–253.

Frequency of Use: Once per investor.

Type of Respondents: Foundations, non-profit entities; investment fund managers, investment companies; US Government Agencies.

Standard Industrial Classification Codes: All.

Description of Affected Public: U.S. companies interested in making investments in companies investing overseas.

Reporting Hours: 16.5 hours (.33 hours per investor).

Number of Responses: 50 per year.

Federal Cost: $0.

Authority for Information Collection: Sections 231 and 239(d) of the Foreign Assistance Act of 1961, as amended.

Abstract (Needs and Uses): The Aligned Capital Investor Screener is a document used to screen potential investors interested in participating in OPIC's Aligned Capital Program and, if they qualify, to place their information into the program. The Aligned Capital Program is a pilot program that OPIC has designed to align development finance with other capital, including philanthropic, socially responsible and impact investment, to enable effective deployment of that capital towards projects in the countries and sectors in which OPIC works. In order to participate, investors must be U.S. entities and meet the additional specified criteria.

Dated: September 1, 2017.

Nichole Skoyles,

Administrative Counsel, Administrative Affairs, Department of Legal Affairs.

[FR Doc. 2017–18969 Filed 9–6–17; 8:45 am]

BILLING CODE 3420–34–P

PENSION BENEFIT GUARANTY CORPORATION

Proposed Submission of Information Collection for OMB Review; Comment Request; Disclosure of Termination Information

AGENCY: Pension Benefit Guaranty Corporation.

ACTION: Notice of intent to request extension of OMB approval.

SUMMARY: Pension Benefit Guaranty Corporation (''PBGC'') intends to request that the Office of Management and Budget (''OMB'') extend approval, under the Paperwork Reduction Act of 1995, of a collection of information on the disclosure of termination information under its regulations for distress terminations, and for PBGC-initiated terminations. This notice informs the public of PBGC's intent and solicits public comment on the collection of information.

DATES: Comments should be submitted by November 6, 2017.

ADDRESSES: Comments may be submitted by any of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the Web site instructions for submitting comments.
- *Email: paperwork.comments@pbgc.gov.*
- *Mail or Hand Delivery:* Regulatory Affairs Division, Office of the General Counsel, Pension Benefit Guaranty Corporation, 1200 K Street NW., Washington, DC 20005–4026.

Comments received will be posted to *www.pbgc.gov.*

Copies of the collection of information may be obtained without charge by writing to the Disclosure Division of the Office of the General Counsel of PBGC at the above address, visiting the Disclosure Division, faxing a request to 202–326–4042, or calling 202–326–4040 during normal business hours. (TTY and TDD users may call the Federal relay service toll-free at 1–800–877–8339 and ask to be connected to 202–326–4040.) The regulations and instructions relating to this collection of information are available on PBGC's Web site at *www.pbgc.gov.*

FOR FURTHER INFORMATION CONTACT: Jo Amato Burns (*burns.jo.amato@pbgc.gov*), Attorney, Office of the General Counsel, Pension Benefit Guaranty Corporation, 1200 K Street NW., Washington, DC 20005, 202–326–4400, ext. 3072. TTY and TDD users may call the Federal relay service toll-free at 800–877–8339 and ask to be connected to 202–326–4400.

SUPPLEMENTARY INFORMATION: Sections 4041 and 4042 of the Employee Retirement Income Security Act of 1974 (ERISA) govern the termination of single-employer defined benefit pension plans that are subject to Title IV of ERISA. A plan administrator may initiate a distress termination pursuant to section 4041(c), and PBGC may itself initiate proceedings to terminate a pension plan under section 4042 if PBGC determines that certain conditions are present. Section 506 of the Pension Protection Act of 2006 amended sections 4041 and 4042 of ERISA. These amendments require that, upon a request by an affected party, a plan administrator must disclose information it has submitted to PBGC in connection with a distress termination filing, and that a plan administrator or plan sponsor must disclose information it has submitted to PBGC in connection

with a PBGC-initiated termination. The provisions also require PBGC to disclose the administrative record relating to a PBGC-initiated termination upon request by an affected party.

Based on information for calendar years 2014–2016, PBGC estimates that approximately 75 plans will terminate as distress or PBGC-initiated terminations each year. A survey conducted by PBGC of nine plans found that two of the nine plans surveyed received requests for termination information. Based on the foregoing, PBGC estimates that two participants or other affected parties of every nine distress terminations or PBGC-initiated terminations filed will annually make requests for termination information, or 2/9 of 75 (approximately 17 per year). Based on information derived from the survey of nine plans, PBGC estimates that the hourly burden and cost for each request will be about 20 hours and $400. The total annual burden is estimated to be 340 hours (17 plans * 20 hours) and $6,800 (17 plans * $400).

PBGC is soliciting public comments to—

- Evaluate whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

Issued in Washington, DC, by:

Daniel S. Liebman,

Acting Assistant General Counsel for Regulatory Affairs, Pension Benefit Guaranty Corporation.

[FR Doc. 2017–19011 Filed 9–6–17; 8:45 am]

BILLING CODE 7709–02–P

POSTAL REGULATORY COMMISSION

[Docket Nos. CP2016–252; MC2017–180 and CP2017–281; MC2017–181 and CP2017–282; MC2017–182 and CP2017–283]

New Postal Products

AGENCY: Postal Regulatory Commission.

ACTION: Notice.

SUMMARY: The Commission is noticing a recent Postal Service filing for the Commission's consideration concerning negotiated service agreements. This notice informs the public of the filing, invites public comment, and takes other administrative steps.

DATES: *Comments are due:* September 7, 2017.

ADDRESSES: Submit comments electronically via the Commission's Filing Online system at *http://www.prc.gov.* Those who cannot submit comments electronically should contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section by telephone for advice on filing alternatives.

FOR FURTHER INFORMATION CONTACT: David A. Trissell, General Counsel, at 202–789–6820.

SUPPLEMENTARY INFORMATION:

Table of Contents

I. Introduction
II. Docketed Proceeding(s)

I. Introduction

The Commission gives notice that the Postal Service filed request(s) for the Commission to consider matters related to negotiated service agreement(s). The request(s) may propose the addition or removal of a negotiated service agreement from the market dominant or the competitive product list, or the modification of an existing product currently appearing on the market dominant or the competitive product list.

Section II identifies the docket number(s) associated with each Postal Service request, the title of each Postal Service request, the request's acceptance date, and the authority cited by the Postal Service for each request. For each request, the Commission appoints an officer of the Commission to represent the interests of the general public in the proceeding, pursuant to 39 U.S.C. 505 (Public Representative). Section II also establishes comment deadline(s) pertaining to each request.

The public portions of the Postal Service's request(s) can be accessed via the Commission's Web site (*http://www.prc.gov*). Non-public portions of the Postal Service's request(s), if any, can be accessed through compliance with the requirements of 39 CFR 3007.40.

The Commission invites comments on whether the Postal Service's request(s) in the captioned docket(s) are consistent with the policies of title 39. For request(s) that the Postal Service states concern market dominant product(s), applicable statutory and regulatory requirements include 39 U.S.C. 3622, 39 U.S.C. 3642, 39 CFR part 3010, and 39 CFR part 3020, subpart B. For request(s) that the Postal Service states concern competitive product(s), applicable statutory and regulatory requirements include 39 U.S.C. 3632, 39 U.S.C. 3633, 39 U.S.C. 3642, 39 CFR part 3015, and 39 CFR part 3020, subpart B. Comment deadline(s) for each request appear in section II.

II. Docketed Proceeding(s)

1. *Docket No(s).:* CP2016–252; *Filing Title:* Notice of United States Postal Service of Change in Prices Pursuant to Amendment to Priority Mail & First-Class Package Service Contract 24; *Filing Acceptance Date:* August 30, 2017; *Filing Authority:* 39 CFR 3015.5; *Public Representative:* Gregory Stanton; *Comments Due:* September 7, 2017.

2. *Docket No(s).:* MC2017–180 and CP2017–281; *Filing Title:* Request of the United States Postal Service to Add Priority Mail Contract 345 to Competitive Product List and Notice of Filing (Under Seal) of Unredacted Governors' Decision, Contract, and Supporting Data; *Filing Acceptance Date:* August 30, 2017; *Filing Authority:* 39 U.S.C. 3642 and 39 CFR 3020.30; *Public Representative:* Christopher C. Mohr; *Comments Due:* September 7, 2017.

3. *Docket No(s).:* MC2017–181 and CP2017–282; *Filing Title:* Request of the United States Postal Service to Add Priority Mail Contract 346 to Competitive Product List and Notice of Filing (Under Seal) of Unredacted Governors' Decision, Contract, and Supporting Data; *Filing Acceptance Date:* August 30, 2017; *Filing Authority:* 39 U.S.C. 3642 and 39 CFR 3020.30; *Public Representative:* Christopher C. Mohr; *Comments Due:* September 7, 2017.

4. *Docket No(s).:* MC2017–182 and CP2017–283; *Filing Title:* Request of the United States Postal Service to Add Priority Mail Contract 347 to Competitive Product List and Notice of Filing (Under Seal) of Unredacted Governors' Decision, Contract, and Supporting Data; *Filing Acceptance Date:* August 30, 2017; *Filing Authority:* 39 U.S.C. 3642 and 39 CFR 3020.30; *Public Representative:* Christopher C. Mohr; *Comments Due:* September 7, 2017.

This notice will be published in the **Federal Register**.

Ruth Ann Abrams,

Acting Secretary.

[FR Doc. 2017–18925 Filed 9–6–17; 8:45 am]

BILLING CODE 7710–FW–P

RAILROAD RETIREMENT BOARD

Proposed Collection; Comment Request

Summary: In accordance with the requirement of Section 3506 (c)(2)(A) of the Paperwork Reduction Act of 1995 which provides opportunity for public comment on new or revised data collections, the Railroad Retirement Board (RRB) will publish periodic summaries of proposed data collections.

Comments are invited on: (a) Whether the proposed information collection is necessary for the proper performance of the functions of the agency, including whether the information has practical utility; (b) the accuracy of the RRB's estimate of the burden of the collection of the information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden related to the collection of information on respondents, including the use of automated collection techniques or other forms of information technology.

Title and purpose of information collection: Availability for Work; OMB 3220–0164. Under Section 1(k) of the Railroad Unemployment Insurance Act, unemployment benefits are not payable for any day for which the claimant is not available for work.

Under Railroad Retirement Board (RRB) regulation 20 CFR 327.5, ''available for work'' is defined as being willing and ready for work. A claimant is ''willing'' to work if willing to accept and perform for hire such work as is reasonably appropriate to his or her employment circumstances. A claimant is ''ready'' for work if he or she (1) is in a position to receive notice of work and is willing to accept and perform such work, and (2) is prepared to be present with the customary equipment at the location of such work within the time usually allotted.

Under RRB regulation 20 CFR 327.15, a claimant may be requested at any time to show, as evidence of willingness to work, that reasonable efforts are being made to obtain work. In order to determine whether a claimant is; (a) Available for work, and (b) willing to work, the RRB utilizes Forms UI–38, UI Claimant's Report of Efforts to Find Work, and UI–38s, School Attendance and Availability Questionnaire, to obtain information from the claimant and Form ID–8k, Questionnaire—Reinstatement of Discharged or Suspended Employee, from the union representative. One response is completed by each respondent. The RRB proposes the following changes to the Forms UI–38 and UI–38s. The RRB proposes no changes to Form ID–8k.

- Form UI–38
  - We propose adding that the claimant can now use online options when searching for a job.
  - We propose to change an item in the second paragraph informing the claimant to register with the State Employment Service and provide proof of the registration to the RRB.
- Form UI–38s—We propose to add an online school selection for students who cannot provide their class hours because their courses are online.

ESTIMATE OF ANNUAL RESPONDENT BURDEN

Form No.	Annual responses	Time (minutes)	Burden (hours)
UI–38s (in person) *	59	6	6
UI–38s (by mail) *	119	10	20
UI–38	3,485	11.5	668
ID–8k	6,461	5	538
Total	10,124		1,232

Additional Information or Comments: To request more information or to obtain a copy of the information collection justification, forms, and/or supporting material, contact Dana Hickman at (312) 751–4981 or *Dana.Hickman@RRB.GOV*. Comments regarding the information collection should be addressed to Brian Foster, Railroad Retirement Board, 844 North Rush Street, Chicago, Illinois 60611–1275 or emailed to *Brian.Foster@rrb.gov*. Written comments should be received within 60 days of this notice.

Brian D. Foster,

Clearance Officer.

[FR Doc. 2017–18971 Filed 9–6–17; 8:45 am]

BILLING CODE 7905–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–81520; File No. SR–C2–2017–024]

Self-Regulatory Organizations; C2 Options Exchange, Incorporated; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend Rule 6.15, Nullification and Adjustment of Options Transactions Including Obvious Errors

September 1, 2017.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the ''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on August 31, 2017, C2 Options Exchange, Incorporated (the ''Exchange'' or ''C2'') filed with the Securities and Exchange Commission (the ''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Exchange filed the proposal as a ''non-controversial'' proposed rule change pursuant to Section 19(b)(3)(A)(iii) of the Act[3] and Rule 19b–4(f)(6) thereunder.[4] The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The purpose of this filing is to amend Rule 6.15, Nullification and Adjustment of Options Transactions including Obvious Errors. The text of the proposed rule change is attached as Exhibit 5 [sic].

The text of the proposed rule change is also available on the Exchange's Web site (*http://www.cboe.com/AboutCBOE/CBOELegalRegulatoryHome.aspx*), at the Exchange's Office of the Secretary,

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78s(b)(3)(A)(iii).

[4] 17 CFR 240.19b–4(f)(6).

and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

Background

The Exchange and other options exchanges recently adopted a new, harmonized rule related to the adjustment and nullification of erroneous options transactions, including a specific provision related to coordination in connection with large-scale events involving erroneous options transactions.[5] The Exchange believes that the changes the options exchanges implemented with the new, harmonized rule have led to increased transparency and finality with respect to the adjustment and nullification of erroneous options transactions. However, as part of the initial initiative, the Exchange and other options exchanges deferred a few specific matters for further discussion. Specifically, as described in the Initial Filing, the Exchange and all other options exchanges have been working to further improve the review of potentially erroneous transactions as well as their subsequent adjustment by creating an objective and universal way to determine Theoretical Price in the event a reliable NBBO is not available. Because this initiative required additional exchange and industry discussion as well as additional time for development and implementation, the Exchange and the other options exchanges determined to proceed with the Initial Filing and to undergo a secondary initiative to complete any additional improvements to the applicable rule. In this filing, the Exchange proposes to adopt procedures that will lead to a more objective and uniform way to determine Theoretical Price in the event a reliable NBBO is not available. In addition, the Exchange proposes to amend the no valid quotes provision.

Calculation of Theoretical Price Using a Third Party Provider

Under the harmonized rule, when reviewing a transaction as potentially erroneous, the Exchange needs to first determine the ''Theoretical Price'' of the option, *i.e.,* the Exchange's estimate of the correct market price for the option. Pursuant to Rule 6.15, if the applicable option series is traded on at least one other options exchange, then the Theoretical Price of an option series is the last national best bid (''NBB'') just prior to the trade in question with respect to an erroneous sell transaction or the last national best offer (''NBO'') just prior to the trade in question with respect to an erroneous buy transaction unless one of the exceptions described below exists. Thus, whenever the Exchange has a reliable NBB or NBO, as applicable, just prior to the transaction, then the Exchange uses this NBB or NBO as the Theoretical Price.

The Rule also contains various provisions governing specific situations where the NBB or NBO is not available or may not be reliable. Specifically, the Rule specifies situations in which there are no quotes or no valid quotes for comparison purposes, when the national best bid or offer (''NBBO'') is determined to be too wide to be reliable, and at the open of trading on each trading day. In each of these circumstances, in turn, because the NBB or NBO is not available or is deemed to be unreliable, the Exchange determines Theoretical Price. Under the current Rule, when determining Theoretical Price, Exchange personnel generally consult and refer to data such as the prices of related series, especially the closest strikes in the option in question. Exchange personnel may also take into account the price of the underlying security and the volatility characteristics of the option as well as historical pricing of the option and/or similar options. Although the Rule is administered by experienced personnel and the Exchange believes the process is currently appropriate, the Exchange recognizes that it is also subjective and could lead to disparate results for a transaction that spans multiple options exchanges.

The Exchange proposes to adopt Interpretation and Policy .08 to specify how the Exchange will determine Theoretical Price when required by sub-paragraphs (b)(1)–(3) of the Rule (*i.e.,* at the open, when there are no valid quotes or when there is a wide quote). In particular, the Exchange has been working with other options exchanges to identify and select a reliable third party vendor (''TP Provider'') that would provide Theoretical Price to the Exchange whenever one or more transactions is under review pursuant to Rule 6.15 and the NBBO is unavailable or deemed unreliable pursuant to Rule 6.15(b). The Exchange and other options exchanges have selected CBOE Livevol, LLC (''Livevol'') as the TP Provider, as described below. As further described below, proposed Interpretation and Policy .08 would codify the use of the TP Provider as well as limited exceptions where the Exchange would be able to deviate from the Theoretical Price given by the TP Provider. Pursuant to proposed Interpretation and Policy .08, when the Exchange must determine Theoretical Price pursuant to the sub-paragraphs (b)(1)–(3) of the Rule, the Exchange will request Theoretical Price from the third party vendor to which the Exchange and all other options exchanges have subscribed. Thus, as set forth in this proposed language, Theoretical Price would be provided to the Exchange by the TP Provider on request and not through a streaming data feed.[6] This language also makes clear that the Exchange and all other options exchanges will use the same TP Provider. As noted above, the proposed TP Provider selected by the Exchange and other options exchanges is Livevol. The Exchange proposes to codify this selection in proposed paragraph (d) to Interpretation and Policy .08. As such, the Exchange would file a rule proposal and would provide notice to the options industry of any proposed change to the TP Provider.

The Exchange and other options exchanges have selected Livevol as the proposed TP Provider after diligence into various alternatives. Livevol has, since 2009, been the options industry leader in providing equity and index options market data and analytics services.[7] The Exchange believes that

[5] *See* Securities Exchange Act Release Nos. 74556 (March 20, 2015), 80 FR 16031 (March 26, 2015) (SR–BATS–2014–067); 81084 (July 6, 2017), 82 FR 32216 (July 12, 2017) (SR–BatsBZX–2017–35); *see also* Securities Exchange Act Release No. 73884 (December 18, 2014), 79 FR 77557 (December 24, 2014) (the ''Initial Filing'').

[6] Though the Exchange and other options exchanges considered a streaming feed, it was determined that it would be more feasible to develop and implement an on demand service and that such a service would satisfy the goals of the initiative.

[7] The Exchange notes that in 2015, Livevol was acquired by CBOE Holdings, Inc., the ultimate parent company of the Exchnage [sic], Chicago

Continued

Livevol has established itself within the options industry as a trusted provider of such services and notes that it and all other options exchanges already subscribe to various Livevol services. In connection with this proposal, Livevol will develop a new tool based on its existing technology and services that will supply Theoretical Price to the Exchange and other options exchanges upon request. The Theoretical Price tool will leverage current market data and surrounding strikes to assist in a relative value pricing approach to generating a Theoretical Price. When relative value methods are incapable of generating a valid Theoretical Price, the Theoretical Price tool will utilize historical trade and quote data to calculate Theoretical Price.

Because the purpose of the proposal is to move away from a subjective determination by Exchange personnel when the NBBO is unavailable or unreliable, the Exchange intends to use the Theoretical Price provided by the TP Provider in all such circumstances. However, the Exchange believes it is necessary to retain the ability to contact the TP Provider if it believes that the Theoretical Price provided is fundamentally incorrect and to determine the Theoretical Price in the limited circumstance of a systems issue experienced by the TP Provider, as described below.

As proposed, to the extent an Official [8] of the Exchange believes that the Theoretical Price provided by the TP Provider is fundamentally incorrect and cannot be used consistent with the maintenance of a fair and orderly market, the Official shall contact the TP Provider to notify the TP Provider of the reason the Official believes such Theoretical Price is inaccurate and to request a review and correction of the calculated Theoretical Price. For example, if an Official received from the TP Provider a Theoretical Price of $80 in a series that the Official might expect to be instead in the range of $8 to $10 because of a recent corporate action in the underlying, the Official would request that the TP Provider review and confirm its calculation and determine whether it had appropriately accounted for the corporate action. In order to ensure that other options exchanges that may potentially be relying on the same Theoretical Price that, in turn, the Official believes to be fundamentally incorrect, the Exchange also proposes to promptly provide notice to other options exchanges that the TP Provider has been contacted to review and correct the calculated Theoretical Price at issue and to include a brief explanation of the reason for the request.[9] Although not directly addressed by the proposed Rule, the Exchange expects that all other options exchanges once in receipt of this notification would await the determination of the TP Provider and would use the corrected price as soon as it is available. The Exchange further notes that it expects the TP Provider to cooperate with, but to be independent of, the Exchange and other options exchanges.[10]

The Exchange believes that the proposed provision to allow an Official to contact the TP Provider if he or she believes the provided Theoretical Price is fundamentally incorrect is necessary, particularly because the Exchange and other options exchanges will be using the new process for the first time. Although the exchanges have conducted thorough diligence with respect to Livevol as the selected TP Provider and would do so with any potential replacement TP Provider, the Exchange is concerned that certain scenarios could arise where the Theoretical Price generated by the TP Provider does not take into account relevant factors and would result in an unfair result for market participants involved in a transaction. The Exchange notes that if such situations do indeed arise, to the extent practicable the Exchange will also work with the TP Provider and other options exchanges to improve the TP Provider's calculation of Theoretical Price in future situations. For instance, if the Exchange determines that a particular type of corporate action is not being appropriately captured by the TP Provider when such provider is generating Theoretical Price, while the Exchange believes that it needs the ability to request a review and correction of the Theoretical Price in connection with a specific review in order to provide a timely decision to market participants, the Exchange would share information regarding the specific situation with the TP Provider and other options exchanges in an effort to improve the Theoretical Price service for future use. The Exchange notes that it does not anticipate needing to rely on this provision frequently, if at all, but believes the provision is necessary nonetheless to best prepare for all potential circumstances. Further, the Theoretical Price used by the Exchange in connection with its rulings will always be that received from the TP Provider and the Exchange has not proposed the ability to deviate from such price.[11]

Pursuant to proposed paragraph (c) to Interpretation and Policy .08, an Official of the Exchange may determine the Theoretical Price if the TP Provider has experienced a systems issue that has rendered its services unavailable to accurately calculate Theoretical Price and such issue cannot be corrected in a timely manner. The Exchange notes that it does not anticipate needing to rely on this provision frequently, if at all, but believes the provision is necessary nonetheless to best prepare for all potential circumstances. Further, consistent with existing text in Rule 6.15(e)(4), the Exchange has not proposed a specific time by which the service must be available in order to be considered timely.[12] The Exchange expects that it would await the TP Provider's services becoming available again so long as the Exchange was able to obtain information regarding the issue and the TP Provider had a reasonable expectation of being able to resume normal operations within the next several hours based on communications with the TP Provider. More specifically with respect to Livevol, Livevol has business continuity and disaster recovery procedures that will help to ensure that the Theoretical Price tool remains available or, in the event of an outage, that service is restored in a timely manner.

The Exchange also notes that if a wide-scale event occurred, even if such event did not qualify as a ''Significant Market Event'' pursuant to Rule 6.15(e), and the TP Provider was unavailable or otherwise experiencing difficulty, the Exchange believes that it and other options exchanges would seek to coordinate to the extent possible. In

Board Options Exchange (''CBOE''), and C2 Options Exchange (''C2'').

[8] For purposes of the Rule, an Official is an Officer of the Exchange or such other employee designee of the Exchange that is trained in the application of Rule 6.15.

[9] *See* proposed paragraph (b) to Interpretation and Policy .08.

[10] The Exchange expects any TP Provider selected by the Exchange and other options exchanges to act independently in its determination and calculation of Theoretical Price. With respect to Livevol specifically, the Exchange again notes that Livevol is a subsidiary of CBOE Holdings, Inc., which is also the ultimate parent company of multiple options exchanges. The Exchange expects Livevol to calculate Theoretical Price independent of its affiliated exchanges in the same way it will calculate Theoretical Price independent of non-affiliated exchanges.

[11] To the extent the TP Provider has been contacted by an Official of the Exchange, reviews the Theoretical Price provided but disagrees that there has been any error, then the Exchange would be bound to use the Theoretical Price provided by the TP Provider.

[12] In the context of a Significant Market Event, the Exchange may determine, ''in consultation with other options exchanges . . . that timely adjustment is not feasible due to the extraordinary nature of the situation.'' *See* Rule 6.15(e)(4).

particular, the Exchange and other options exchanges now have a process, administered by the Options Clearing Corporation, to invoke a discussion amongst all options exchanges in the event of any widespread or significant market events. The Exchange believes that this process could be used in the event necessary if there were an issue with the TP Provider.

The Exchange also proposes to adopt language in paragraph (d) of Interpretation and Policy .08 to Rule 6.15 to disclaim the liability of the Exchange and the TP Provider in connection with the proposed Rule, the TP Provider's calculation of Theoretical Price, and the Exchange's use of such Theoretical Price. Specifically, the proposed rule would state that neither the Exchange, the TP Provider, nor any affiliate of the TP Provider (the TP Provider and its affiliates are referred to collectively as the ''TP Provider''), makes any warranty, express or implied, as to the results to be obtained by any person or entity from the use of the TP Provider pursuant to Interpretation and Policy .08. The proposed rule would further state that the TP Provider does not guarantee the accuracy or completeness of the calculated Theoretical Price and that the TP Provider disclaims all warranties of merchantability or fitness for a particular purpose or use with respect to such Theoretical Price. Finally, the proposed Rule would state that neither the Exchange nor the TP Provider shall have any liability for any damages, claims, losses (including any indirect or consequential losses), expenses, or delays, whether direct or indirect, foreseen or unforeseen, suffered by any person arising out of any circumstance or occurrence relating to the use of such Theoretical Price or arising out of any errors or delays in calculating such Theoretical Price. This proposed language is modeled after existing language in Exchange Rules regarding ''reporting authorities'' that calculate indices.[13]

In connection with the proposed change described above, the Exchange proposes to modify Rule 6.15 to state that the Exchange will rely on paragraph (b), and Interpretation and Policy .08 when determining Theoretical Price.

No Valid Quotes—Market Participant Quoting on Multiple Exchanges

As described above, one of the times where the NBB or NBO is deemed to be unreliable for purposes of Theoretical Price is when there are no quotes or no valid quotes for the affected series. In addition to when there are no quotes, the Exchange does not consider the following to be valid quotes: (i) All quotes in the applicable option series published at a time where the last NBB is higher than the last NBO in such series (a ''crossed market''); (ii) quotes published by the Exchange that were submitted by either party to the transaction in question; and (iii) quotes published by another options exchange against which the Exchange has declared self-help. In recognition of today's market structure where certain participants actively provide liquidity on multiple exchanges simultaneously, the Exchange proposes to add an additional category of invalid quotes. Specifically, in order to avoid a situation where a market participant has established the market at an erroneous price on multiple exchanges, the Exchange proposes to consider as invalid the quotes in a series published by another options exchange if either party to the transaction in question submitted the quotes in the series representing such options exchange's best bid or offer. Thus, similar to being able to ignore for purposes of the Rule the quotes published by the Exchange if submitted by either party to the transaction in question, the Exchange would be able to ignore for purposes of the rule quotations on other options exchanges by that same market participant.

In order to continue to apply the Rule in a timely and organized fashion, however, the Exchange proposes to initially limit the scope of this proposed provision in two ways. First, because the process will take considerable coordination with other options exchanges to confirm that the quotations in question on an away options exchange were indeed submitted by a party to a transaction on the Exchange, the Exchange proposes to limit this provision to apply to up to twenty-five (25) total options series (*i.e.,* whether such series all relate to the same underlying security or multiple underlying securities). Second, the Exchange proposes to require the party that believes it established the best bid or offer on one or more other options exchanges to identify to the Exchange the quotes which were submitted by such party and published by other options exchanges. In other words, as proposed, the burden will be on the party seeking that the Exchange disregard their quotations on other options exchanges to identify such quotations. In turn, the Exchange will verify with such other options exchanges that such quotations were indeed submitted by such party.

Below are examples of both the current rule and the rule as proposed to be amended.

Example 1—Current Rule, Trading Permit Holder (''TPH'') Erroneously Quotes on One Exchange

Assumptions

For purposes of this example, assume the following:

- A TPH acting as a Market Maker on the Exchange (''Market Maker A'') is quoting in twenty series of options underlying security ABCD on the Exchange (and only the Exchange).
- Market Maker A makes an error in calculating the market for options on ABCD, and publishes quotes in all twenty series to buy options at $1.00 and to sell options at $1.05.
- In fact, options on ABCD in these series are nearly worthless and no other market participant is quoting in such series.
- Therefore, the NBBO in the twenty series at issue is $1.00 × $1.05 (with the Exchange representing the NBBO based on Market Maker A's quotes).
- Assume TPH A immediately enters sell orders and executes against Market Maker A's quotes at $1.00.
- Assume Market Maker A submits to the Exchange a timely request for review of the trades with TPH A as potentially erroneous transactions to buy.

Result

- Based on the Exchange's current rules, the Exchange would identify Market Maker A as a participant to the trades at issue and would consider Market Maker A's quotations invalid pursuant to Rule 6.15(b)(2).
- As there were no other valid quotes to use as a reference price, the Exchange would then determine Theoretical Price.
- Assume the Exchange determines a Theoretical Price of $0.05.

○ The execution price of $1.00 exceeds the $0.25 minimum amount set forth in the Exchange's table to determine whether an obvious error has occurred (*i.e.,* $0.05 + $0.25 = $0.30) so any execution at or above this price is an obvious error.

○ Accordingly, the executions in all series would be adjusted by the Exchange to executions at $0.20 per contract (Theoretical Price of $0.05 plus $0.15) to the extent the incoming orders submitted by TPH A were non-Customer orders.

○ The executions in all series would be nullified to the extent the incoming

[13] *See, e.g.,* Rule 6.42, which relates to index options potentially listed and traded on the Exchange and disclaims liability for a reporting authority and their affiliates.

orders submitted by TPH A were Customer orders.

Example 2—Current Rule, TPH Erroneously Quotes on Multiple Exchanges

Assumptions

For purposes of this example, assume the following:

- A TPH acting as a Market Maker on the Exchange (''Market Maker A'') is quoting in twenty series of options underlying security ABCD on the Exchange and on a second exchange (''Away Exchange'').
- Market Maker A makes an error in calculating the market for options on ABCD, and publishes quotes on both the Exchange and the Away Exchange in all twenty series to buy options at $1.00 and to sell options at $1.05.
- In fact, options on ABCD in these series are nearly worthless and no other market participant is quoting in such series.
- Therefore, the NBBO in the twenty series at issue is $1.00 × $1.05 (with the Exchange and the Away Exchange representing the NBBO based on Market Maker A's quotes).
- Assume TPH A immediately enters sell orders and executes against Market Maker A's quotes at $1.00.
- Assume Market Maker A submits to the Exchange and to the Away Exchange timely requests for review of the trades with TPH A as potentially erroneous transactions to buy.

Result

- Based on the Exchange's current rules, the Exchange would identify Market Maker A as a participant to the trades at issue and would consider Market Maker A's quotations on the Exchange invalid pursuant to Rule 6.15(b)(2). The Exchange, however, would view the Away Exchange's quotations as valid, and would thus determine Theoretical Price to be $1.05 (*i.e.,* the NBO in the case of a potentially erroneous buy transaction).
- The execution price of $1.00 does not exceed the $0.25 minimum amount set forth in the Exchange's table to determine whether an obvious error has occurred (*i.e.,* $1.05 + $0.25 = $1.30) so any execution at or above this price is an obvious error.
- The transactions on the Exchange would not be nullified or adjusted.
- As the Exchange and all other options exchanges have identical rules with respect to the process described above, the transactions on the Away Exchange would not be nullified or adjusted.

Example 3—Proposed Rule, TPH Erroneously Quotes on Multiple Exchanges [14]

Assumptions

For purposes of this example, assume the following:

- A TPH acting as a Market Maker on the Exchange (''Market Maker A'') is quoting in twenty series of options underlying security ABCD on the Exchange and on a second exchange (''Away Exchange'').[15]
- Market Maker A makes an error in calculating the market for options on ABCD, and publishes quotes on both the Exchange and the Away Exchange in all twenty series to buy options at $1.00 and to sell options at $1.05.
- In fact, options on ABCD in these series are nearly worthless and no other market participant is quoting in such series.
- Therefore, the NBBO in the twenty series at issue is $1.00 × $1.05 (with the Exchange and the Away Exchange representing the NBBO based on Market Maker A's quotes).
- Assume TPH A immediately enters sell orders and executes against Market Maker A's quotes at $1.00.
- Assume Market Maker A submits to the Exchange and to the Away Exchange timely requests for review of the trades with TPH A as potentially erroneous transactions to buy. At the time of submitting the requests for review to the Exchange and the Away Exchange, Market Maker A identifies to the Exchange the quotes on the Away Exchange as quotes also represented by Market Maker A (and to the Away Exchange, the quotes on the Exchange as quotes also represented by Market Maker A).

Result

- Based on the proposed rules, the Exchange would identify Market Maker A as a participant to the trades at issue and would consider Market Maker A's quotations on the Exchange invalid pursuant to Rule 6.15(b)(2).
- The Exchange and the Away Exchange would also coordinate to confirm that the quotations identified by Market Maker A on the other exchange were indeed Market Maker A's quotations. Once confirmed, each of the Exchange and the Away Exchange would also consider invalid the quotations published on the other exchange.
- As there were no other valid quotes to use as a reference price, the Exchange would then determine Theoretical Price.
- Assume the Exchange determines a Theoretical Price of $0.05.
  - The execution price of $1.00 exceeds the $0.25 minimum amount set forth in the Exchange's table to determine whether an obvious error has occurred (*i.e.,* $0.05 + $0.25 = $0.30) so any execution at or above this price is an obvious error.
  - Accordingly, the executions in all series would be adjusted by the Exchange to executions at $0.20 per contract (Theoretical Price of $0.05 plus $0.15) to the extent the incoming orders submitted by TPH A were non-Customer orders.
  - The executions in all series would be nullified to the extent the incoming orders submitted by TPH A were Customer orders.
- As the Exchange and all other options exchanges would have identical rules with respect to the process described above, as other options exchanges intend to adopt the same rule if the proposed rule is approved, the transactions on the Away Exchange would also be nullified or adjusted as set forth above.
- If this example was instead modified such that Market Maker A was quoting in 200 series rather than 20, the Exchange notes that Market Maker A could only request that the Exchange consider as invalid their quotations in 25 of those series on other exchanges. As noted above, the Exchange has proposed to limit the proposed rule to 25 series in order to continue to process requests for review in a timely and organized fashion in order to provide certainty to market participants. This is due to the amount of coordination that will be necessary in such a scenario to confirm that the quotations in question on an away options exchange were indeed submitted by a party to a transaction on the Exchange.

Implementation Date

The Exchange proposes to delay the operative date of this proposal to a date within ninety (90) days after the Commission approved the Bats BZX proposal on July 6, 2017. The Exchange will announce the operative date in a Regulatory Circular made available to its Members.

2. Statutory Basis

The Exchange believes that its proposal is consistent with the requirements of the Act and the rules

[14] The Exchange notes that its proposed rule will not impact the proposed handling of a request for review where a market participant is quoting only on the Exchange, thus, the Exchange has not included a separate example for such a fact-pattern.

[15] The Exchange notes that the proposed rule would operate the same if Market Maker A was quoting on more than two exchanges. The Exchange has limited the example to two exchanges for simplicity.

and regulations thereunder that are applicable to a national securities exchange, and, in particular, with the requirements of Section 6(b) of the Act. Specifically, the proposal is consistent with Section 6(b)(5) of the Act because it would promote just and equitable principles of trade, remove impediments to, and perfect the mechanism of, a free and open market and a national market system, and, in general, protect investors and the public interest.

As described above, the Exchange and other options exchanges are seeking to further modify their harmonized rules related to the adjustment and nullification of erroneous options transactions. The Exchange believes that the proposal to utilize a TP Provider in the event the NBBO is unavailable or unreliable will provide greater transparency and clarity with respect to the adjustment and nullification of erroneous options transactions. Particularly, the proposed changes seek to achieve consistent results for participants across U.S. options exchanges while maintaining a fair and orderly market, protecting investors and protecting the public interest. Thus, the Exchange believes that the proposal is consistent with Section 6(b)(5) of the Act in that the proposed Rule will foster cooperation and coordination with persons engaged in regulating and facilitating transactions.

The Exchange again reiterates that it has retained the standard of the current rule for most reviews of options transactions pursuant to Rule 6.15, which is to rely on the NBBO to determine Theoretical Price if such NBBO can reasonably be relied upon. The proposal to use a TP Provider when the NBBO is unavailable or unreliable is consistent with Section 6(b)(5) of the Act in that the proposed Rule will foster cooperation and coordination with persons engaged in regulating and facilitating transactions by further reducing the possibility of disparate results between options exchanges and increasing the objectivity of the application of Rule 6.15. Further, the Exchange believes that the proposed Rule is transparent with respect to the limited circumstances under which the Exchange will request a review and correction of Theoretical Price from the TP Provider, and has sought to limit such circumstances as much as possible. The Exchange notes that under the current Rule, Exchange personnel are required to determine Theoretical Price in certain circumstances and yet rarely do so because such circumstances have already been significantly limited under the harmonized rule (for example, because the wide quote provision of the harmonized rule only applies if the quote was narrower and then gapped but does not apply if the quote had been persistently wide). Thus, the Exchange believes it will need to request Theoretical Price from the TP Provider only in very rare circumstances and in turn, the Exchange anticipates that the need to contact the TP Provider for additional review of the Theoretical Price provided by the TP Provider will be even rarer. Similarly, the Exchange believes it is unlikely that an Exchange Official will ever be required to determine Theoretical Price, as such circumstance would only be in the event of a systems issue that has rendered the TP Provider's services unavailable and such issue cannot be corrected in a timely manner.

The Exchange also believes its proposal to adopt language in paragraph (d) of Interpretation and Policy .08 to Rule 6.15 to disclaim the liability of the Exchange and the TP Provider in connection with the proposed Rule, the TP Provider's calculation of Theoretical Price, and the Exchange's use of such Theoretical Price is consistent with the Act. As noted above, this proposed language is modeled after existing language in Exchange Rules regarding ''reporting authorities'' that calculate indices, and is consistent with Section 6(b)(5) of the Act in that the proposed Rule will foster cooperation and coordination with persons engaged in regulating and facilitating transactions.

As described above, the Exchange proposes a modification to the valid quotes provision to also exclude quotes in a series published by another options exchange if either party to the transaction in question submitted the orders or quotes in the series representing such options exchange's best bid or offer. The Exchange believes this proposal is consistent with Section 6(b)(5) of the Act because the application of the rule will foster cooperation and coordination with persons engaged in regulating and facilitating transactions by allowing the Exchange to coordinate with other options exchanges to determine whether a market participant that is party to a potentially erroneous transaction on the Exchange established the market in an option on other options exchanges; to the extent this can be established, the Exchange believes such participant's quotes should be excluded in the same way such quotes are excluded on the Exchange. The Exchange also believes it is reasonable to limit the scope of this provision to twenty-five (25) series and to require the party that believes it established the best bid or offer on one or more other options exchanges to identify to the Exchange the quotes which were submitted by that party and published by other options exchanges. The Exchange believes these limitations are consistent with Section 6(b)(5) of the Act because they will ensure that the Exchange is able to continue to apply the Rule in a timely and organized fashion, thus fostering cooperation and coordination with persons engaged in regulating and facilitating transactions and also removing impediments to and perfecting the mechanism of a free and open market and a national market system.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange believes the proposal is consistent with Section 6(b)(8) of the Act[16] in that it does not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act as explained below.

Importantly, the Exchange does not believe that the proposal will impose a burden on intermarket competition but rather that it will alleviate any burden on competition because it is the result of a collaborative effort by all options exchanges to further harmonize and improve the process related to the adjustment and nullification of erroneous options transactions. The Exchange does not believe that the rules applicable to such process is an area where options exchanges should compete, but rather, that all options exchanges should have consistent rules to the extent possible. Particularly where a market participant trades on several different exchanges and an erroneous trade may occur on multiple markets nearly simultaneously, the Exchange believes that a participant should have a consistent experience with respect to the nullification or adjustment of transactions. To that end, the selection and implementation of a TP Provider utilized by all options exchanges will further reduce the possibility that participants with potentially erroneous transactions that span multiple options exchanges are handled differently on such exchanges. Similarly, the proposed ability to consider quotations invalid on another options exchange if ultimately originating from a party to a potentially erroneous transaction on the Exchange represents a proposal intended to further foster cooperation by the options exchanges with respect to market events. The Exchange understands that all other options exchanges intend to

[16] 15 U.S.C. 78f(b)(8).

file proposals that are substantially similar to this proposal.

The Exchange does not believe that the proposed rule change imposes a burden on intramarket competition because the proposed provisions apply to all market participants equally.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Exchange neither solicited nor received comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A)(iii) of the Act [17] and subparagraph (f)(6) of Rule 19b–4 thereunder.[18]

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is: (i) Necessary or appropriate in the public interest; (ii) for the protection of investors; or (iii) otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–C2–2017–024 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–C2–2017–024. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549 on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of such filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–C2–2017–024, and should be submitted on or before September 28, 2017.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[19]

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2017–19003 Filed 9–6–17; 8:45 am]

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[17] 15 U.S.C. 78s(b)(3)(A)(iii).

[18] 17 CFR 240.19b–4(f)(6). In addition, Rule 19b–4(f)(6) requires a self-regulatory organization to give the Commission written notice of its intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

[19] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Investment Company Act Release No. 32803; 812–14797]

Northern Lights Fund Trust IV and Measured Risk Portfolios, Inc.

August 31, 2017.

AGENCY: Securities and Exchange Commission.

ACTION: Notice.

Notice of an application under section 6(c) of the Investment Company Act of 1940 (''Act'') for an exemption from section 15(a) of the Act and rule 18f–2 under the Act, as well as from certain disclosure requirements in rule 20a–1 under the Act, Item 19(a)(3) of Form N–1A, Items 22(c)(1)(ii), 22(c)(1)(iii), 22(c)(8) and 22(c)(9) of Schedule 14A under the Securities Exchange Act of 1934, and sections 6–07(2)(a), (b), and (c) of Regulation S–X (''Disclosure Requirements''). The requested exemption would permit an investment adviser to hire and replace certain subadvisers without shareholder approval and grant relief from the Disclosure Requirements as they relate to fees paid to the subadvisers.

APPLICANTS: Northern Lights Fund Trust IV (the ''Trust''), a Delaware statutory trust registered under the Act as an open-end management investment company, and Measured Risk Portfolios, Inc. (the ''Initial Adviser''), a California corporation registered as an investment adviser under the Investment Advisers Act of 1940 (collectively with the Trust, the ''Applicants'').

FILING DATES: The application was filed on July 7, 2017 and amended on August 14, 2017 and August 25, 2017.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the Commission orders a hearing. Interested persons may request a hearing by writing to the Commission's Secretary and serving applicants with a copy of the request, personally or by mail. Hearing requests should be received by the Commission by 5:30 p.m. on September 25, 2017, and should be accompanied by proof of service on the applicants, in the form of an affidavit or, for lawyers, a certificate of service. Pursuant to rule 0–5 under the Act, hearing requests should state the nature of the writer's interest, any facts bearing upon the desirability of a hearing on the matter, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by writing to the Commission's Secretary.

ADDRESSES: Secretary, U.S. Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090. Applicants: Jennifer Farrell, Secretary, Northern Lights Fund Trust IV, 80 Arkay Drive, Suite 110, Hauppauge, NY 11788.

FOR FURTHER INFORMATION CONTACT: Courtney S. Thornton, Senior Counsel, at (202) 551–6812, or Robert H. Shapiro, Branch Chief, at (202) 551–6821 (Division of Investment Management, Chief Counsel's Office).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained via the Commission's Web site by searching for the file number, or an applicant using the Company name box, at *http://www.sec.gov/search/search.htm* or by calling (202) 551–8090.

Summary of the Application

1. The Adviser will serve as the investment adviser to the Funds pursuant to an investment advisory agreement with the Trust (the ''Advisory Agreement'').[1] The Adviser will provide each Fund with overall investment management services and will continuously review, supervise and administer each Fund's investment program, subject to the supervision of, and policies established by, each Fund's board of trustees (''Board''). The Advisory Agreement permits the Adviser, subject to the approval of the Board, to delegate to one or more subadvisers (each, a ''Subadviser'' and collectively, the ''Subadvisers'') the responsibility to provide the day-to-day portfolio investment management of each Fund, subject to the supervision and direction of the Adviser.[2] The primary responsibility for managing the Funds will remain vested in the Adviser. The Adviser will hire, evaluate, allocate assets to and oversee the Subadvisers, including determining whether a Subadviser should be terminated, at all times subject to the authority of the Board.

2. Applicants request an exemption to permit the Adviser, subject to Board approval, to hire certain Subadvisers pursuant to subadvisory agreements and materially amend existing subadvisory agreements without obtaining the shareholder approval required under section 15(a) of the Act and rule 18f–2 under the Act.[3] Applicants also seek an exemption from the Disclosure Requirements to permit a Fund to disclose (as both a dollar amount and a percentage of the Fund's net assets): (a) The aggregate fees paid to the Adviser and any Affiliated Subadviser; and (b) the aggregate fees paid to Subadvisers other than Affiliated Subadvisers. For any Fund that employs an Affiliated Subadviser, the Fund will provide separate disclosure of any fees paid to the Affiliated Subadviser.

3. Applicants agree that any order granting the requested relief will be subject to the terms and conditions stated in the application. Such terms and conditions provide for, among other safeguards, appropriate disclosure to Fund shareholders and notification about subadvisory changes and enhanced Board oversight to protect the interests of the Funds' shareholders.

4. Section 6(c) of the Act provides that the Commission may exempt any person, security, or transaction or any class or classes of persons, securities, or transactions from any provisions of the Act, or any rule thereunder, if such relief is necessary or appropriate in the public interest and consistent with the protection of investors and purposes fairly intended by the policy and provisions of the Act. Applicants believe that the requested relief meets this standard because, as further explained in the application, the Advisory Agreements will remain subject to shareholder approval while the role of the Subadvisers is substantially similar to that of individual portfolio managers, so that requiring shareholder approval of subadvisory agreements would impose unnecessary delays and expenses on the Funds. Applicants believe that the requested relief from the Disclosure Requirements meets this standard because it will improve the Adviser's ability to negotiate fees paid to the Subadvisers that are more advantageous for the Funds.

For the Commission, by the Division of Investment Management, under delegated authority.

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2017–18929 Filed 9–6–17; 8:45 am]

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[1] Applicants request relief with respect to any existing or future series of the Trust or any other registered open-end management company that: (a) Is advised by the Initial Adviser, or any person controlling, controlled by or under common control with the Initial Adviser or its successors (each, an ''Adviser''); (b) uses the manager of managers structure described in the application; and (c) complies with the terms and conditions of the application (any such series, a ''Fund'' and collectively, the ''Funds''). For purposes of the requested order, ''successor'' is limited to an entity that results from a reorganization into another jurisdiction or a change in the type of business organization.

[2] The Initial Adviser already has hired a subadviser for the Measured Risk Strategy Fund in compliance with section 15(a) of the Act.

[3] The requested relief will not extend to any subadviser that is an affiliated person, as defined in section 2(a)(3) of the Act, of the Trust, a Fund, or the Adviser, other than solely by reason of serving as a Subadviser to one or more of the Funds, or as an adviser or subadviser to any series of the Trust other than the Funds (''Affiliated Subadviser'').

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–81516; File No. SR–CBOE–2017–058]

Self-Regulatory Organizations; Chicago Board Options Exchange, Incorporated; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend Rule 6.25, Nullification and Adjustment of Options Transactions Including Obvious Errors

August 31, 2017.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the ''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on August 29, 2017, Chicago Board Options Exchange, Incorporated (the ''Exchange'' or ''CBOE'') filed with the Securities and Exchange Commission (the ''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Exchange filed the proposal as a ''non-controversial'' proposed rule change pursuant to Section 19(b)(3)(A)(iii) of the Act[3] and Rule 19b–4(f)(6) thereunder.[4] The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The purpose of this filing is to amend Rule 6.25, Nullification and Adjustment of Options Transactions including Obvious Errors. The text of the proposed rule change is attached as Exhibit 5 (sic).

The text of the proposed rule change is also available on the Exchange's Web site (*http://www.cboe.com/AboutCBOE/CBOELegalRegulatoryHome.aspx*), at the Exchange's Office of the Secretary, and at the Commission's Public Reference Room.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78s(b)(3)(A)(iii).

[4] 17 CFR 240.19b–4(f)(6).

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

Background

The Exchange and other options exchanges recently adopted a new, harmonized rule related to the adjustment and nullification of erroneous options transactions, including a specific provision related to coordination in connection with large-scale events involving erroneous options transactions.[5] The Exchange believes that the changes the options exchanges implemented with the new, harmonized rule have led to increased transparency and finality with respect to the adjustment and nullification of erroneous options transactions. However, as part of the initial initiative, the Exchange and other options exchanges deferred a few specific matters for further discussion. Specifically, as described in the Initial Filing, the Exchange and all other options exchanges have been working to further improve the review of potentially erroneous transactions as well as their subsequent adjustment by creating an objective and universal way to determine Theoretical Price in the event a reliable NBBO is not available. Because this initiative required additional exchange and industry discussion as well as additional time for development and implementation, the Exchange and the other options exchanges determined to proceed with the Initial Filing and to undergo a secondary initiative to complete any additional improvements to the applicable rule. In this filing, the Exchange proposes to adopt procedures that will lead to a more objective and uniform way to determine Theoretical Price in the event a reliable NBBO is not available. In addition, the Exchange proposes to amend the no valid quotes provision.

Calculation of Theoretical Price Using a Third Party Provider

Under the harmonized rule, when reviewing a transaction as potentially erroneous, the Exchange needs to first determine the ''Theoretical Price'' of the option, *i.e.,* the Exchange's estimate of the correct market price for the option. Pursuant to Rule 6.25, if the applicable option series is traded on at least one other options exchange, then the Theoretical Price of an option series is the last national best bid (''NBB'') just prior to the trade in question with respect to an erroneous sell transaction or the last national best offer (''NBO'') just prior to the trade in question with respect to an erroneous buy transaction unless one of the exceptions described below exists. Thus, whenever the Exchange has a reliable NBB or NBO, as applicable, just prior to the transaction, then the Exchange uses this NBB or NBO as the Theoretical Price.

The Rule also contains various provisions governing specific situations where the NBB or NBO is not available or may not be reliable. Specifically, the Rule specifies situations in which there are no quotes or no valid quotes for comparison purposes, when the national best bid or offer (''NBBO'') is determined to be too wide to be reliable, and at the open of trading on each trading day. In each of these circumstances, in turn, because the NBB or NBO is not available or is deemed to be unreliable, the Exchange determines Theoretical Price. Under the current Rule, when determining Theoretical Price, Exchange personnel generally consult and refer to data such as the prices of related series, especially the closest strikes in the option in question. Exchange personnel may also take into account the price of the underlying security and the volatility characteristics of the option as well as historical pricing of the option and/or similar options. Although the Rule is administered by experienced personnel and the Exchange believes the process is currently appropriate, the Exchange recognizes that it is also subjective and could lead to disparate results for a transaction that spans multiple options exchanges.

The Exchange proposes to adopt Interpretation and Policy .08 to specify how the Exchange will determine Theoretical Price when required by sub-paragraphs (b)(1)–(3) of the Rule (*i.e.,* at the open, when there are no valid quotes or when there is a wide quote). In particular, the Exchange has been working with other options exchanges to identify and select a reliable third party vendor (''TP Provider'') that would provide Theoretical Price to the Exchange whenever one or more transactions is under review pursuant to Rule 6.25 and the NBBO is unavailable or deemed unreliable pursuant to Rule 6.25(b). The Exchange and other options exchanges have selected CBOE Livevol, LLC (''Livevol'') as the TP Provider, as described below. As further described below, proposed Interpretation and Policy .08 would codify the use of the TP Provider as well as limited exceptions where the Exchange would be able to deviate from the Theoretical Price given by the TP Provider.

Pursuant to proposed Interpretation and Policy .08, when the Exchange must determine Theoretical Price pursuant to the sub-paragraphs (b)(1)–(3) of the Rule, the Exchange will request Theoretical Price from the third party vendor to which the Exchange and all other options exchanges have subscribed. Thus, as set forth in this proposed language, Theoretical Price would be provided to the Exchange by the TP Provider on request and not through a streaming data feed.[6] This language also makes clear that the Exchange and all other options exchanges will use the same TP Provider. As noted above, the proposed TP Provider selected by the Exchange and other options exchanges is Livevol. The Exchange proposes to codify this selection in proposed paragraph (d) to Interpretation and Policy .08. As such, the Exchange would file a rule proposal and would provide notice to the options industry of any proposed change to the TP Provider.

The Exchange and other options exchanges have selected Livevol as the proposed TP Provider after diligence into various alternatives. Livevol has, since 2009, been the options industry leader in providing equity and index options market data and analytics services.[7] The Exchange believes that Livevol has established itself within the options industry as a trusted provider of such services and notes that it and all

[5] *See* Securities Exchange Act Release Nos. 74556 (March 20, 2015), 80 FR 16031 (March 26, 2015) (SR–BATS–2014–067); 81084 (July 6, 2017), 82 FR 32216 (July 12, 2017) (SR–BatsBZX–2017–35); *See also* Securities Exchange Act Release No. 73884 (December 18, 2014), 79 FR 77557 (December 24, 2014) (the ''Initial Filing'').

[6] Though the Exchange and other options exchanges considered a streaming feed, it was determined that it would be more feasible to develop and implement an on demand service and that such a service would satisfy the goals of the initiative.

[7] The Exchange notes that in 2015, Livevol was acquired by CBOE Holdings, Inc., the ultimate parent company of the Exchange and C2 Options Exchange (''C2'').

other options exchanges already subscribe to various Livevol services. In connection with this proposal, Livevol will develop a new tool based on its existing technology and services that will supply Theoretical Price to the Exchange and other options exchanges upon request. The Theoretical Price tool will leverage current market data and surrounding strikes to assist in a relative value pricing approach to generating a Theoretical Price. When relative value methods are incapable of generating a valid Theoretical Price, the Theoretical Price tool will utilize historical trade and quote data to calculate Theoretical Price.

Because the purpose of the proposal is to move away from a subjective determination by Exchange personnel when the NBBO is unavailable or unreliable, the Exchange intends to use the Theoretical Price provided by the TP Provider in all such circumstances. However, the Exchange believes it is necessary to retain the ability to contact the TP Provider if it believes that the Theoretical Price provided is fundamentally incorrect and to determine the Theoretical Price in the limited circumstance of a systems issue experienced by the TP Provider, as described below.

As proposed, to the extent an Official [8] of the Exchange believes that the Theoretical Price provided by the TP Provider is fundamentally incorrect and cannot be used consistent with the maintenance of a fair and orderly market, the Official shall contact the TP Provider to notify the TP Provider of the reason the Official believes such Theoretical Price is inaccurate and to request a review and correction of the calculated Theoretical Price. For example, if an Official received from the TP Provider a Theoretical Price of $80 in a series that the Official might expect to be instead in the range of $8 to $10 because of a recent corporate action in the underlying, the Official would request that the TP Provider review and confirm its calculation and determine whether it had appropriately accounted for the corporate action. In order to ensure that other options exchanges that may potentially be relying on the same Theoretical Price that, in turn, the Official believes to be fundamentally incorrect, the Exchange also proposes to promptly provide notice to other options exchanges that the TP Provider has been contacted to review and correct the calculated Theoretical Price at issue and to include a brief explanation of the reason for the request.[9] Although not directly addressed by the proposed Rule, the Exchange expects that all other options exchanges once in receipt of this notification would await the determination of the TP Provider and would use the corrected price as soon as it is available. The Exchange further notes that it expects the TP Provider to cooperate with, but to be independent of, the Exchange and other options exchanges.[10]

The Exchange believes that the proposed provision to allow an Official to contact the TP Provider if he or she believes the provided Theoretical Price is fundamentally incorrect is necessary, particularly because the Exchange and other options exchanges will be using the new process for the first time. Although the exchanges have conducted thorough diligence with respect to Livevol as the selected TP Provider and would do so with any potential replacement TP Provider, the Exchange is concerned that certain scenarios could arise where the Theoretical Price generated by the TP Provider does not take into account relevant factors and would result in an unfair result for market participants involved in a transaction. The Exchange notes that if such situations do indeed arise, to the extent practicable the Exchange will also work with the TP Provider and other options exchanges to improve the TP Provider's calculation of Theoretical Price in future situations. For instance, if the Exchange determines that a particular type of corporate action is not being appropriately captured by the TP Provider when such provider is generating Theoretical Price, while the Exchange believes that it needs the ability to request a review and correction of the Theoretical Price in connection with a specific review in order to provide a timely decision to market participants, the Exchange would share information regarding the specific situation with the TP Provider and other options exchanges in an effort to improve the Theoretical Price service for future use. The Exchange notes that it does not anticipate needing to rely on this provision frequently, if at all, but believes the provision is necessary nonetheless to best prepare for all potential circumstances. Further, the Theoretical Price used by the Exchange in connection with its rulings will always be that received from the TP Provider and the Exchange has not proposed the ability to deviate from such price.[11]

Pursuant to proposed paragraph (c) to Interpretation and Policy .08, an Official of the Exchange may determine the Theoretical Price if the TP Provider has experienced a systems issue that has rendered its services unavailable to accurately calculate Theoretical Price and such issue cannot be corrected in a timely manner. The Exchange notes that it does not anticipate needing to rely on this provision frequently, if at all, but believes the provision is necessary nonetheless to best prepare for all potential circumstances. Further, consistent with existing text in Rule 6.25(e)(4), the Exchange has not proposed a specific time by which the service must be available in order to be considered timely.[12] The Exchange expects that it would await the TP Provider's services becoming available again so long as the Exchange was able to obtain information regarding the issue and the TP Provider had a reasonable expectation of being able to resume normal operations within the next several hours based on communications with the TP Provider. More specifically with respect to Livevol, Livevol has business continuity and disaster recovery procedures that will help to ensure that the Theoretical Price tool remains available or, in the event of an outage, that service is restored in a timely manner.

The Exchange also notes that if a wide-scale event occurred, even if such event did not qualify as a ''Significant Market Event'' pursuant to Rule 6.25(e), and the TP Provider was unavailable or otherwise experiencing difficulty, the Exchange believes that it and other options exchanges would seek to coordinate to the extent possible. In particular, the Exchange and other options exchanges now have a process, administered by the Options Clearing Corporation, to invoke a discussion

[8] For purposes of the Rule, an Official is an Officer of the Exchange or such other employee designee of the Exchange that is trained in the application of Rule 6.25.

[9] *See* proposed paragraph (b) to Interpretation and Policy .08.

[10] The Exchange expects any TP Provider selected by the Exchange and other options exchanges to act independently in its determination and calculation of Theoretical Price. With respect to Livevol specifically, the Exchange again notes that Livevol is a subsidiary of CBOE Holdings, Inc., which is also the ultimate parent company of the Exchange and multiple other options exchanges. The Exchange expects Livevol to calculate Theoretical Price independent of its affiliated exchanges in the same way it will calculate Theoretical Price independent of non-affiliated exchanges.

[11] To the extent the TP Provider has been contacted by an Official of the Exchange, reviews the Theoretical Price provided but disagrees that there has been any error, then the Exchange would be bound to use the Theoretical Price provided by the TP Provider.

[12] In the context of a Significant Market Event, the Exchange may determine, ''in consultation with other options exchanges . . . that timely adjustment is not feasible due to the extraordinary nature of the situation.'' *See* Rule 6.25(e)(4).

amongst all options exchanges in the event of any widespread or significant market events. The Exchange believes that this process could be used in the event necessary if there were an issue with the TP Provider.

The Exchange also proposes to adopt language in paragraph (d) of Interpretation and Policy .08 to Rule 6.25 to disclaim the liability of the Exchange and the TP Provider in connection with the proposed Rule, the TP Provider's calculation of Theoretical Price, and the Exchange's use of such Theoretical Price. Specifically, the proposed rule would state that neither the Exchange, the TP Provider, nor any affiliate of the TP Provider (the TP Provider and its affiliates are referred to collectively as the ''TP Provider''), makes any warranty, express or implied, as to the results to be obtained by any person or entity from the use of the TP Provider pursuant to Interpretation and Policy .08. The proposed rule would further state that the TP Provider does not guarantee the accuracy or completeness of the calculated Theoretical Price and that the TP Provider disclaims all warranties of merchantability or fitness for a particular purpose or use with respect to such Theoretical Price. Finally, the proposed Rule would state that neither the Exchange nor the TP Provider shall have any liability for any damages, claims, losses (including any indirect or consequential losses), expenses, or delays, whether direct or indirect, foreseen or unforeseen, suffered by any person arising out of any circumstance or occurrence relating to the use of such Theoretical Price or arising out of any errors or delays in calculating such Theoretical Price. This proposed language is modeled after existing language in Exchange Rules regarding ''reporting authorities'' that calculate indices.[13]

In connection with the proposed change described above, the Exchange proposes to modify Rule 6.25 to state that the Exchange will rely on paragraph (b), and Interpretation and Policy .08 when determining Theoretical Price.

No Valid Quotes—Market Participant Quoting on Multiple Exchanges

As described above, one of the times where the NBB or NBO is deemed to be unreliable for purposes of Theoretical Price is when there are no quotes or no valid quotes for the affected series. In addition to when there are no quotes, the Exchange does not consider the following to be valid quotes: (i) All quotes in the applicable option series published at a time where the last NBB is higher than the last NBO in such series (a ''crossed market''); (ii) quotes published by the Exchange that were submitted by either party to the transaction in question; and (iii) quotes published by another options exchange against which the Exchange has declared self-help. In recognition of today's market structure where certain participants actively provide liquidity on multiple exchanges simultaneously, the Exchange proposes to add an additional category of invalid quotes. Specifically, in order to avoid a situation where a market participant has established the market at an erroneous price on multiple exchanges, the Exchange proposes to consider as invalid the quotes in a series published by another options exchange if either party to the transaction in question submitted the quotes in the series representing such options exchange's best bid or offer. Thus, similar to being able to ignore for purposes of the Rule the quotes published by the Exchange if submitted by either party to the transaction in question, the Exchange would be able to ignore for purposes of the rule quotations on other options exchanges by that same market participant.

In order to continue to apply the Rule in a timely and organized fashion, however, the Exchange proposes to initially limit the scope of this proposed provision in two ways. First, because the process will take considerable coordination with other options exchanges to confirm that the quotations in question on an away options exchange were indeed submitted by a party to a transaction on the Exchange, the Exchange proposes to limit this provision to apply to up to twenty-five (25) total options series (*i.e.,* whether such series all relate to the same underlying security or multiple underlying securities). Second, the Exchange proposes to require the party that believes it established the best bid or offer on one or more other options exchanges to identify to the Exchange the quotes which were submitted by such party and published by other options exchanges. In other words, as proposed, the burden will be on the party seeking that the Exchange disregard their quotations on other options exchanges to identify such quotations. In turn, the Exchange will verify with such other options exchanges that such quotations were indeed submitted by such party.

Below are examples of both the current rule and the rule as proposed to be amended.

Example 1—Current Rule, Trading Permit Holder (''TPH'') Erroneously Quotes on One Exchange

Assumptions

For purposes of this example, assume the following:

- A TPH acting as a Market Maker on the Exchange (''Market Maker A'') is quoting in twenty series of options underlying security ABCD on the Exchange (and only the Exchange).
- Market Maker A makes an error in calculating the market for options on ABCD, and publishes quotes in all twenty series to buy options at $1.00 and to sell options at $1.05.
- In fact, options on ABCD in these series are nearly worthless and no other market participant is quoting in such series.
- Therefore, the NBBO in the twenty series at issue is $1.00 × $1.05 (with the Exchange representing the NBBO based on Market Maker A's quotes).
- Assume TPH A immediately enters sell orders and executes against Market Maker A's quotes at $1.00.
- Assume Market Maker A submits to the Exchange a timely request for review of the trades with TPH A as potentially erroneous transactions to buy.

Result

- Based on the Exchange's current rules, the Exchange would identify Market Maker A as a participant to the trades at issue and would consider Market Maker A's quotations invalid pursuant to Rule 6.25(b)(2).
- As there were no other valid quotes to use as a reference price, the Exchange would then determine Theoretical Price.
- Assume the Exchange determines a Theoretical Price of $0.05.

○ The execution price of $1.00 exceeds the $0.25 minimum amount set forth in the Exchange's table to determine whether an obvious error has occurred (*i.e.,* $0.05 + $0.25 = $0.30) so any execution at or above this price is an obvious error.

○ Accordingly, the executions in all series would be adjusted by the Exchange to executions at $0.20 per contract (Theoretical Price of $0.05 plus $0.15) to the extent the incoming orders submitted by TPH A were non-Customer orders.

○ The executions in all series would be nullified to the extent the incoming orders submitted by TPH A were Customer orders.

[13] *See, e.g.,* Rule 24.14, which relates to index options potentially listed and traded on the Exchange and disclaims liability for a reporting authority and their affiliates; *see also, e.g.,* Rule 29.10, which relates to certain types of Credit Options potentially listed and traded on the Exchange and disclaim liability for the Exchange, a reporting authority and any agent of the Exchange.

Example 2—Current Rule, TPH Erroneously Quotes on Multiple Exchanges

Assumptions

For purposes of this example, assume the following:

• A TPH acting as a Market Maker on the Exchange (''Market Maker A'') is quoting in twenty series of options underlying security ABCD on the Exchange and on a second exchange (''Away Exchange'').

• Market Maker A makes an error in calculating the market for options on ABCD, and publishes quotes on both the Exchange and the Away Exchange in all twenty series to buy options at $1.00 and to sell options at $1.05.

• In fact, options on ABCD in these series are nearly worthless and no other market participant is quoting in such series.

• Therefore, the NBBO in the twenty series at issue is $1.00 × $1.05 (with the Exchange and the Away Exchange representing the NBBO based on Market Maker A's quotes).

• Assume TPH A immediately enters sell orders and executes against Market Maker A's quotes at $1.00.

• Assume Market Maker A submits to the Exchange and to the Away Exchange timely requests for review of the trades with TPH A as potentially erroneous transactions to buy.

Result

• Based on the Exchange's current rules, the Exchange would identify Market Maker A as a participant to the trades at issue and would consider Market Maker A's quotations on the Exchange invalid pursuant to Rule 6.25(b)(2). The Exchange, however, would view the Away Exchange's quotations as valid, and would thus determine Theoretical Price to be $1.05 (*i.e.,* the NBO in the case of a potentially erroneous buy transaction).

• The execution price of $1.00 does not exceed the $0.25 minimum amount set forth in the Exchange's table to determine whether an obvious error has occurred (*i.e.,* $1.05 + $0.25 = $1.30) so any execution at or above this price is an obvious error.

• The transactions on the Exchange would not be nullified or adjusted.

• As the Exchange and all other options exchanges have identical rules with respect to the process described above, the transactions on the Away Exchange would not be nullified or adjusted.

Example 3—Proposed Rule, TPH Erroneously Quotes on Multiple Exchanges [14]

Assumptions

For purposes of this example, assume the following:

• A TPH acting as a Market Maker on the Exchange (''Market Maker A'') is quoting in twenty series of options underlying security ABCD on the Exchange and on a second exchange (''Away Exchange'').[15]

• Market Maker A makes an error in calculating the market for options on ABCD, and publishes quotes on both the Exchange and the Away Exchange in all twenty series to buy options at $1.00 and to sell options at $1.05.

• In fact, options on ABCD in these series are nearly worthless and no other market participant is quoting in such series.

• Therefore, the NBBO in the twenty series at issue is $1.00 × $1.05 (with the Exchange and the Away Exchange representing the NBBO based on Market Maker A's quotes).

• Assume TPH A immediately enters sell orders and executes against Market Maker A's quotes at $1.00.

• Assume Market Maker A submits to the Exchange and to the Away Exchange timely requests for review of the trades with TPH A as potentially erroneous transactions to buy. At the time of submitting the requests for review to the Exchange and the Away Exchange, Market Maker A identifies to the Exchange the quotes on the Away Exchange as quotes also represented by Market Maker A (and to the Away Exchange, the quotes on the Exchange as quotes also represented by Market Maker A).

Result

• Based on the proposed rules, the Exchange would identify Market Maker A as a participant to the trades at issue and would consider Market Maker A's quotations on the Exchange invalid pursuant to Rule 6.25(b)(2).

• The Exchange and the Away Exchange would also coordinate to confirm that the quotations identified by Market Maker A on the other exchange were indeed Market Maker A's quotations. Once confirmed, each of the Exchange and the Away Exchange would also consider invalid the quotations published on the other exchange.

• As there were no other valid quotes to use as a reference price, the Exchange would then determine Theoretical Price.

• Assume the Exchange determines a Theoretical Price of $0.05.

○ The execution price of $1.00 exceeds the $0.25 minimum amount set forth in the Exchange's table to determine whether an obvious error has occurred (*i.e.,* $0.05 + $0.25 = $0.30) so any execution at or above this price is an obvious error.

○ Accordingly, the executions in all series would be adjusted by the Exchange to executions at $0.20 per contract (Theoretical Price of $0.05 plus $0.15) to the extent the incoming orders submitted by TPH A were non-Customer orders.

○ The executions in all series would be nullified to the extent the incoming orders submitted by TPH A were Customer orders.

• As the Exchange and all other options exchanges would have identical rules with respect to the process described above, as other options exchanges intend to adopt the same rule if the proposed rule is approved, the transactions on the Away Exchange would also be nullified or adjusted as set forth above.

• If this example was instead modified such that Market Maker A was quoting in 200 series rather than 20, the Exchange notes that Market Maker A could only request that the Exchange consider as invalid their quotations in 25 of those series on other exchanges. As noted above, the Exchange has proposed to limit the proposed rule to 25 series in order to continue to process requests for review in a timely and organized fashion in order to provide certainty to market participants. This is due to the amount of coordination that will be necessary in such a scenario to confirm that the quotations in question on an away options exchange were indeed submitted by a party to a transaction on the Exchange.

Implementation Date

The Exchange proposes to delay the operative date of this proposal to a date within ninety (90) days after the Commission approved the Bats BZX proposal on July 6, 2017. The Exchange will announce the operative date in a Regulatory Circular made available to its Members.

2. Statutory Basis

The Exchange believes that its proposal is consistent with the requirements of the Act and the rules

[14] The Exchange notes that its proposed rule will not impact the proposed handling of a request for review where a market participant is quoting only on the Exchange, thus, the Exchange has not included a separate example for such a fact-pattern.

[15] The Exchange notes that the proposed rule would operate the same if Market Maker A was quoting on more than two exchanges. The Exchange has limited the example to two exchanges for simplicity.

and regulations thereunder that are applicable to a national securities exchange, and, in particular, with the requirements of Section 6(b) of the Act. Specifically, the proposal is consistent with Section 6(b)(5) of the Act because it would promote just and equitable principles of trade, remove impediments to, and perfect the mechanism of, a free and open market and a national market system, and, in general, protect investors and the public interest.

As described above, the Exchange and other options exchanges are seeking to further modify their harmonized rules related to the adjustment and nullification of erroneous options transactions. The Exchange believes that the proposal to utilize a TP Provider in the event the NBBO is unavailable or unreliable will provide greater transparency and clarity with respect to the adjustment and nullification of erroneous options transactions. Particularly, the proposed changes seek to achieve consistent results for participants across U.S. options exchanges while maintaining a fair and orderly market, protecting investors and protecting the public interest. Thus, the Exchange believes that the proposal is consistent with Section 6(b)(5) of the Act in that the proposed Rule will foster cooperation and coordination with persons engaged in regulating and facilitating transactions.

The Exchange again reiterates that it has retained the standard of the current rule for most reviews of options transactions pursuant to Rule 6.25, which is to rely on the NBBO to determine Theoretical Price if such NBBO can reasonably be relied upon. The proposal to use a TP Provider when the NBBO is unavailable or unreliable is consistent with Section 6(b)(5) of the Act in that the proposed Rule will foster cooperation and coordination with persons engaged in regulating and facilitating transactions by further reducing the possibility of disparate results between options exchanges and increasing the objectivity of the application of Rule 6.25. Further, the Exchange believes that the proposed Rule is transparent with respect to the limited circumstances under which the Exchange will request a review and correction of Theoretical Price from the TP Provider, and has sought to limit such circumstances as much as possible. The Exchange notes that under the current Rule, Exchange personnel are required to determine Theoretical Price in certain circumstances and yet rarely do so because such circumstances have already been significantly limited under the harmonized rule (for example, because the wide quote provision of the harmonized rule only applies if the quote was narrower and then gapped but does not apply if the quote had been persistently wide). Thus, the Exchange believes it will need to request Theoretical Price from the TP Provider only in very rare circumstances and in turn, the Exchange anticipates that the need to contact the TP Provider for additional review of the Theoretical Price provided by the TP Provider will be even rarer. Similarly, the Exchange believes it is unlikely that an Exchange Official will ever be required to determine Theoretical Price, as such circumstance would only be in the event of a systems issue that has rendered the TP Provider's services unavailable and such issue cannot be corrected in a timely manner.

The Exchange also believes its proposal to adopt language in paragraph (d) of Interpretation and Policy .08 to Rule 6.25 to disclaim the liability of the Exchange and the TP Provider in connection with the proposed Rule, the TP Provider's calculation of Theoretical Price, and the Exchange's use of such Theoretical Price is consistent with the Act. As noted above, this proposed language is modeled after existing language in Exchange Rules regarding ''reporting authorities'' that calculate indices, and is consistent with Section 6(b)(5) of the Act in that the proposed Rule will foster cooperation and coordination with persons engaged in regulating and facilitating transactions.

As described above, the Exchange proposes a modification to the valid quotes provision to also exclude quotes in a series published by another options exchange if either party to the transaction in question submitted the orders or quotes in the series representing such options exchange's best bid or offer. The Exchange believes this proposal is consistent with Section 6(b)(5) of the Act because the application of the rule will foster cooperation and coordination with persons engaged in regulating and facilitating transactions by allowing the Exchange to coordinate with other options exchanges to determine whether a market participant that is party to a potentially erroneous transaction on the Exchange established the market in an option on other options exchanges; to the extent this can be established, the Exchange believes such participant's quotes should be excluded in the same way such quotes are excluded on the Exchange. The Exchange also believes it is reasonable to limit the scope of this provision to twenty-five (25) series and to require the party that believes it established the best bid or offer on one or more other options exchanges to identify to the Exchange the quotes which were submitted by that party and published by other options exchanges. The Exchange believes these limitations are consistent with Section 6(b)(5) of the Act because they will ensure that the Exchange is able to continue to apply the Rule in a timely and organized fashion, thus fostering cooperation and coordination with persons engaged in regulating and facilitating transactions and also removing impediments to and perfecting the mechanism of a free and open market and a national market system.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange believes the proposal is consistent with Section 6(b)(8) of the Act[16] in that it does not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act as explained below.

Importantly, the Exchange does not believe that the proposal will impose a burden on intermarket competition but rather that it will alleviate any burden on competition because it is the result of a collaborative effort by all options exchanges to further harmonize and improve the process related to the adjustment and nullification of erroneous options transactions. The Exchange does not believe that the rules applicable to such process is an area where options exchanges should compete, but rather, that all options exchanges should have consistent rules to the extent possible. Particularly where a market participant trades on several different exchanges and an erroneous trade may occur on multiple markets nearly simultaneously, the Exchange believes that a participant should have a consistent experience with respect to the nullification or adjustment of transactions. To that end, the selection and implementation of a TP Provider utilized by all options exchanges will further reduce the possibility that participants with potentially erroneous transactions that span multiple options exchanges are handled differently on such exchanges. Similarly, the proposed ability to consider quotations invalid on another options exchange if ultimately originating from a party to a potentially erroneous transaction on the Exchange represents a proposal intended to further foster cooperation by the options exchanges with respect to market events. The Exchange understands that all other options exchanges intend to

[16] 15 U.S.C. 78f(b)(8).

file proposals that are substantially similar to this proposal.

The Exchange does not believe that the proposed rule change imposes a burden on intramarket competition because the proposed provisions apply to all market participants equally.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Exchange neither solicited nor received comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A)(iii) of the Act [17] and subparagraph (f)(6) of Rule 19b–4 thereunder.[18]

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is: (i) Necessary or appropriate in the public interest; (ii) for the protection of investors; or (iii) otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–CBOE–2017–058 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–CBOE–2017–058. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549 on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of such filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–CBOE–2017–058, and should be submitted on or before September 28, 2017.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[19]

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2017–18939 Filed 9–6–17; 8:45 am]

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[17] 15 U.S.C. 78s(b)(3)(A)(iii).

[18] 17 CFR 240.19b–4(f)(6). In addition, Rule 19b–4(f)(6) requires a self-regulatory organization to give the Commission written notice of its intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

[19] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Investment Company Act Release No. 32805; File No. 812–14754]

American Century International Bond Funds, et al.

August 31, 2017.

AGENCY: Securities and Exchange Commission.

ACTION: Notice.

Notice of an application for an order under section 12(d)(1)(J) of the Investment Company Act of 1940 (the ''Act'') for an exemption from sections 12(d)(1)(A), (B), and (C) of the Act and under sections 6(c) and 17(b) of the Act for an exemption from sections 17(a)(1) and (2) of the Act. The requested order would permit certain registered open-end investment companies to acquire shares of certain registered open-end investment companies, registered closed-end investment companies, business development companies, as defined in section 2(a)(48) of the Act (''BDCs'') and registered unit investment trusts (collectively, ''Underlying Funds'') that are within and outside the same group of investment companies as the acquiring investment companies, in excess of the limits in section 12(d)(1) of the Act.

Applicants: American Century International Bond Funds (''ACIBF''), a Massachusetts business trust, and American Century Strategic Asset Allocations, Inc. (''ACSAA''), a Maryland corporation, each registered under the Act as an open-end management investment company with multiple series (each series, a ''Fund'' and collectively, the ''Funds''); American Century Investment Management, Inc. (''ACIM'' or the ''Advisor''), a Delaware Corporation registered as an investment adviser under the Investment Advisers Act of 1940; and American Century Investment Services, Inc., a Missouri corporation, registered as a broker-dealer under the Securities Exchange Act of 1934 (''Exchange Act'').

Filing Dates: The application was filed on March 7, 2017, and amended on August 4, 2017.

Hearing or Notification of Hearing: An order granting the requested relief will be issued unless the Commission orders a hearing. Interested persons may request a hearing by writing to the Commission's Secretary and serving applicants with a copy of the request, personally or by mail. Hearing requests should be received by the Commission by 5:30 p.m. on September 25, 2017 and should be accompanied by proof of

service on the applicants, in the form of an affidavit, or, for lawyers, a certificate of service. Pursuant to Rule 0–5 under the Act, hearing requests should state the nature of the writer's interest, any facts bearing upon the desirability of a hearing on the matter, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by writing to the Commission's Secretary.

ADDRESSES: Secretary, U.S. Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090. Applicants: c/o Mr. Giles Walsh, Esq., American Century Investments, 4500 Main Street, Kansas City, Missouri 64111.

FOR FURTHER INFORMATION CONTACT: Elizabeth G. Miller, Senior Counsel, at (202) 551–8707, or Holly Hunter-Ceci, Assistant Chief Counsel, at (202) 551–6825 (Division of Investment Management, Chief Counsel's Office).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained via the Commission's Web site by searching for the file number, or for an applicant using the Company name box, at *http://www.sec.gov/search/search.htm,* or by calling (202) 551–8090.

Summary of the Application

1. Applicants request an order to permit (a) a Fund [1] (each a ''Fund of Funds'') to acquire shares of Underlying Funds [2] in excess of the limits in sections 12(d)(1)(A) and (C) of the Act and (b) the Underlying Funds that are registered open-end investment companies or series thereof, their principal underwriters and any broker or dealer registered under the Exchange Act to sell shares of the Underlying Fund to the Fund of Funds in excess of the limits in section 12(d)(1)(B) of the Act.[3] Applicants also request an order of exemption under sections 6(c) and 17(b) of the Act from the prohibition on certain affiliated transactions in section 17(a) of the Act to the extent necessary to permit the Underlying Funds to sell their shares to, and redeem their shares from, the Funds of Funds.[4] Applicants state that such transactions will be consistent with the policies of each Fund of Funds and each Underlying Fund and with the general purposes of the Act and will be based on the net asset values of the Underlying Funds.

2. Applicants agree that any order granting the requested relief will be subject to the terms and conditions stated in the application. Such terms and conditions are designed to, among other things, help prevent any potential (i) undue influence over an Underlying Fund that is not in the same ''group of investment companies'' as the Fund of Funds through control or voting power, or in connection with certain services, transactions, and underwritings, (ii) excessive layering of fees, and (iii) overly complex fund structures, which are the concerns underlying the limits in sections 12(d)(1)(A), (B), and (C) of the Act.

3. Section 12(d)(1)(J) of the Act provides that the Commission may exempt any person, security, or transaction, or any class or classes of persons, securities, or transactions, from any provision of section 12(d)(1) if the exemption is consistent with the public interest and the protection of investors. Section 17(b) of the Act authorizes the Commission to grant an order permitting a transaction otherwise prohibited by section 17(a) if it finds that (a) the terms of the proposed transaction are fair and reasonable and do not involve overreaching on the part of any person concerned; (b) the proposed transaction is consistent with the policies of each registered investment company involved; and (c) the proposed transaction is consistent with the general purposes of the Act. Section 6(c) of the Act permits the Commission to exempt any persons or transactions from any provision of the Act if such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2017–18931 Filed 9–6–17; 8:45 am]

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[1] Applicants request that the order apply not only to any existing series of ACIBF and ACSAA, but that the order also extend to any future series of ACIBF and ACSAA, and any other existing or future registered open-end management investment companies and any series thereof that are, or in the future be, advised by the Advisor or any other investment adviser controlling, controlled by or under common control with the Advisor and that are part of the same group of investment companies, as defined in section 12(d)(1)(G)(ii) of the Act, as ACIBF and ACSAA (together with the existing series of ACIBF and ACSAA, each series a ''Fund''). All references to the term ''Advisor'' include successors-in-interest to the Advisor. For purposes of the requested order, a successor-in-interest is limited to an entity that results from a reorganization into another jurisdiction or a change in the type of business organization. For purposes of the request for relief, the term ''group of investment companies'' means any two or more registered investment companies, including closed-end investment companies, that hold themselves out to investors as related companies for purposes of investment and investor services.

[2] Certain of the Underlying Funds have obtained exemptions from the Commission necessary to permit their shares to be listed and traded on a national securities exchange at negotiated prices and, accordingly, to operate as an exchange-traded fund (''ETF'').

[3] Applicants do not request relief for the Funds of Funds to invest in reliance on the order in BDCs and registered closed-end investment companies that are not listed on a national securities exchange.

[4] A Fund of Funds generally would purchase and sell shares of an Underlying Fund that operates as an ETF through secondary market transactions rather than through principal transactions with the Underlying Fund. Applicants nevertheless request relief from sections 17(a)(1) and (2) to permit each Fund of Funds that is an affiliated person, or an affiliated person of an affiliated person, as defined in section 2(a)(3) of the Act, of an ETF to purchase or redeem shares from the ETF. Applicants are not seeking relief from section 17(a) for, and the requested relief will not apply to, transactions where an ETF could be deemed an affiliated person, or an affiliated person of an affiliated person, of a Fund of Funds because an investment adviser to the ETF or an entity controlling, controlled by or under common control with the investment adviser to the ETF is also an investment adviser to the Fund of Funds. A Fund of Funds will purchase and sell shares of an Underlying Fund that is a closed-end fund through secondary market transactions at market prices rather than through principal transactions with the closed-end fund. Accordingly, applicants are not requesting section 17(a) relief with respect to principal transactions with closed-end funds.

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–81515; File No. SR-BatsEDGX–2017–36]

Self-Regulatory Organizations; Bats EDGX Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend Rule 20.3, Trading Halts, and Rule 20.6, Nullification and Adjustment of Options Transactions Including Obvious Errors

August 31, 2017.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the ''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on August 29, 2017, Bats EDGX Exchange, Inc. (the ''Exchange'' or ''EDGX'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Exchange has designated this proposal as a ''non-controversial'' proposed rule change pursuant to Section 19(b)(3)(A) of the Act [3] and Rule 19b–4(f)(6)(iii) thereunder,[4] which renders it effective

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78s(b)(3)(A).

[4] 17 CFR 240.19b–4(f)(6)(iii).

upon filing with the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange filed a proposal to amend Rule 20.6, entitled ''Nullification and Adjustment of Options Transactions including Obvious Errors.'' Rule 20.6 relates to the adjustment and nullification of transactions that occur on the Exchange's equity options platform (''EDGX Options'').

The text of the proposed rule change is available at the Exchange's Web site at *www.bats.com,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in Sections A, B, and C below, of the most significant parts of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

Background

The Exchange and other options exchanges recently adopted a new, harmonized rule related to the adjustment and nullification of erroneous options transactions, including a specific provision related to coordination in connection with large-scale events involving erroneous options transactions.[5] The Exchange believes that the changes the options exchanges implemented with the new, harmonized rule have led to increased transparency and finality with respect to the adjustment and nullification of erroneous options transactions. However, as part of the initial initiative, the Exchange and other options exchanges deferred a few specific matters for further discussion. Specifically, as described in the Initial Filing, the Exchange and all other options exchanges have been working to further improve the review of potentially erroneous transactions as well as their subsequent adjustment by creating an objective and universal way to determine Theoretical Price in the event a reliable NBBO is not available. Because this initiative required additional exchange and industry discussion as well as additional time for development and implementation, the Exchange and the other options exchanges determined to proceed with the Initial Filing and to undergo a secondary initiative to complete any additional improvements to the applicable rule. In this filing, the Exchange proposes to adopt procedures that will lead to a more objective and uniform way to determine Theoretical Price in the event a reliable NBBO is not available. In addition the Exchange seeks to amend provisions related to no valid quotes and situations in which there is a regulatory halt.

Calculation of Theoretical Price Using a Third Party Provider

Under the harmonized rule, when reviewing a transaction as potentially erroneous, the Exchange needs to first determine the ''Theoretical Price'' of the option, *i.e.,* the Exchange's estimate of the correct market price for the option. Pursuant to Rule 20.6, if the applicable option series is traded on at least one other options exchange, then the Theoretical Price of an option series is the last national best bid (''NBB'') just prior to the trade in question with respect to an erroneous sell transaction or the last national best offer (''NBO'') just prior to the trade in question with respect to an erroneous buy transaction unless one of the exceptions described below exists. Thus, whenever the Exchange has a reliable NBB or NBO, as applicable, just prior to the transaction, then the Exchange uses this NBB or NBO as the Theoretical Price.

The Rule also contains various provisions governing specific situations where the NBB or NBO is not available or may not be reliable. Specifically, the Rule specifies situations in which there are no quotes or no valid quotes for comparison purposes, when the national best bid or offer (''NBBO'') is determined to be too wide to be reliable, and at the open of trading on each trading day. In each of these circumstances, in turn, because the NBB or NBO is not available or is deemed to be unreliable, the Exchange determines Theoretical Price. Under the current Rule, when determining Theoretical Price, Exchange personnel generally consult and refer to data such as the prices of related series, especially the closest strikes in the option in question. Exchange personnel may also take into account the price of the underlying security and the volatility characteristics of the option as well as historical pricing of the option and/or similar options. Although the Rule is administered by experienced personnel and the Exchange believes the process is currently appropriate, the Exchange recognizes that it is also subjective and could lead to disparate results for a transaction that spans multiple options exchanges.

The Exchange proposes to adopt Interpretation and Policy .03 to specify how the Exchange will determine Theoretical Price when required by sub-paragraphs (b)(1)–(3) of the Rule (*i.e.,* at the open, when there are no valid quotes or when there is a wide quote). In particular, the Exchange has been working with other options exchanges to identify and select a reliable third party vendor (''TP Provider'') that would provide Theoretical Price to the Exchange whenever one or more transactions is under review pursuant to Rule 20.6 and the NBBO is unavailable or deemed unreliable pursuant to Rule 20.6(b). The Exchange and other options exchanges have selected CBOE Livevol, LLC (''Livevol'') as the TP Provider, as described below. As further described below, proposed Interpretation and Policy .03 would codify the use of the TP Provider as well as limited exceptions where the Exchange would be able to deviate from the Theoretical Price given by the TP Provider.

Pursuant to proposed Interpretation and Policy .03, when the Exchange must determine Theoretical Price pursuant to the sub-paragraphs (b)(1)–(3) of the Rule, the Exchange will request Theoretical Price from the third party vendor to which the Exchange and all other options exchanges have subscribed. Thus, as set forth in this proposed language, Theoretical Price would be provided to the Exchange by the TP Provider on request and not through a streaming data feed.[6] This language also makes clear that the Exchange and all other options exchanges will use the same TP Provider. As noted above, the proposed TP Provider selected by the Exchange

[5] *See* Securities Exchange Act Release Nos. 74556 (March 20, 2015), 80 FR 16031 (March 26, 2015) (SR–BATS–2014–067); 81084 (July 6, 2017), 82 FR 32216 (July 12, 2017) (SR–BatsBZX–2017–35); *see also* Securities Exchange Act Release No. 73884 (December 18, 2014), 79 FR 77557 (December 24, 2014) (the ''Initial Filing'').

[6] Though the Exchange and other options exchanges considered a streaming feed, it was determined that it would be more feasible to develop and implement an on demand service and that such a service would satisfy the goals of the initiative.

and other options exchanges is Livevol. The Exchange proposes to codify this selection in proposed paragraph (d) to Interpretation and Policy .03. As such, the Exchange would file a rule proposal and would provide notice to the options industry of any proposed change to the TP Provider.

The Exchange and other options exchanges have selected Livevol as the proposed TP Provider after diligence into various alternatives. Livevol has, since 2009, been the options industry leader in providing equity and index options market data and analytics services.[7] The Exchange believes that Livevol has established itself within the options industry as a trusted provider of such services and notes that it and all other options exchanges already subscribe to various Livevol services. In connection with this proposal, Livevol will develop a new tool based on its existing technology and services that will supply Theoretical Price to the Exchange and other options exchanges upon request. The Theoretical Price tool will leverage current market data and surrounding strikes to assist in a relative value pricing approach to generating a Theoretical Price. When relative value methods are incapable of generating a valid Theoretical Price, the Theoretical Price tool will utilize historical trade and quote data to calculate Theoretical Price.

Because the purpose of the proposal is to move away from a subjective determination by Exchange personnel when the NBBO is unavailable or unreliable, the Exchange intends to use the Theoretical Price provided by the TP Provider in all such circumstances. However, the Exchange believes it is necessary to retain the ability to contact the TP Provider if it believes that the Theoretical Price provided is fundamentally incorrect and to determine the Theoretical Price in the limited circumstance of a systems issue experienced by the TP Provider, as described below.

As proposed, to the extent an Official[8] of the Exchange believes that the Theoretical Price provided by the TP Provider is fundamentally incorrect and cannot be used consistent with the maintenance of a fair and orderly market, the Official shall contact the TP Provider to notify the TP Provider of the reason the Official believes such Theoretical Price is inaccurate and to request a review and correction of the calculated Theoretical Price. For example, if an Official received from the TP Provider a Theoretical Price of $80 in a series that the Official might expect to be instead in the range of $8 to $10 because of a recent corporate action in the underlying, the Official would request that the TP Provider review and confirm its calculation and determine whether it had appropriately accounted for the corporate action. In order to ensure that other options exchanges that may potentially be relying on the same Theoretical Price that, in turn, the Official believes to be fundamentally incorrect, the Exchange also proposes to promptly provide notice to other options exchanges that the TP Provider has been contacted to review and correct the calculated Theoretical Price at issue and to include a brief explanation of the reason for the request.[9] Although not directly addressed by the proposed Rule, the Exchange expects that all other options exchanges once in receipt of this notification would await the determination of the TP Provider and would use the corrected price as soon as it is available. The Exchange further notes that it expects the TP Provider to cooperate with, but to be independent of, the Exchange and other options exchanges.[10]

The Exchange believes that the proposed provision to allow an Official to contact the TP Provider if he or she believes the provided Theoretical Price is fundamentally incorrect is necessary, particularly because the Exchange and other options exchanges will be using the new process for the first time. Although the exchanges have conducted thorough diligence with respect to Livevol as the selected TP Provider and would do so with any potential replacement TP Provider, the Exchange is concerned that certain scenarios could arise where the Theoretical Price generated by the TP Provider does not take into account relevant factors and would result in an unfair result for market participants involved in a transaction. The Exchange notes that if such situations do indeed arise, to the extent practicable the Exchange will also work with the TP Provider and other options exchanges to improve the TP Provider's calculation of Theoretical Price in future situations. For instance, if the Exchange determines that a particular type of corporate action is not being appropriately captured by the TP Provider when such provider is generating Theoretical Price, while the Exchange believes that it needs the ability to request a review and correction of the Theoretical Price in connection with a specific review in order to provide a timely decision to market participants, the Exchange would share information regarding the specific situation with the TP Provider and other options exchanges in an effort to improve the Theoretical Price service for future use. The Exchange notes that it does not anticipate needing to rely on this provision frequently, if at all, but believes the provision is necessary nonetheless to best prepare for all potential circumstances. Further, the Theoretical Price used by the Exchange in connection with its rulings will always be that received from the TP Provider and the Exchange has not proposed the ability to deviate from such price.[11]

Pursuant to proposed paragraph (c) to Interpretation and Policy .03, an Official of the Exchange may determine the Theoretical Price if the TP Provider has experienced a systems issue that has rendered its services unavailable to accurately calculate Theoretical Price and such issue cannot be corrected in a timely manner. The Exchange notes that it does not anticipate needing to rely on this provision frequently, if at all, but believes the provision is necessary nonetheless to best prepare for all potential circumstances. Further, consistent with existing text in Rule 20.6(e)(4), the Exchange has not proposed a specific time by which the service must be available in order to be considered timely.[12] The Exchange expects that it would await the TP Provider's services becoming available again so long as the Exchange was able to obtain information regarding the issue and the TP Provider had a reasonable expectation of being able to

[7] The Exchange notes that in 2015, Livevol was acquired by CBOE Holdings, Inc., the ultimate parent company of the Exchange, Chicago Board Options Exchange (''CBOE'') and C2 Options Exchange (''C2'').

[8] For purposes of the Rule, an Official is an Officer of the Exchange or such other employee designee of the Exchange that is trained in the application of Rule 20.6.

[9] *See* proposed paragraph (b) to Interpretation and Policy .03.

[10] The Exchange expects any TP Provider selected by the Exchange and other options exchanges to act independently in its determination and calculation of Theoretical Price. With respect to Livevol specifically, the Exchange again notes that Livevol is a subsidiary of CBOE Holdings, Inc., which is also the ultimate parent company of the Exchange, and multiple other options exchanges. The Exchange expects Livevol to calculate Theoretical Price independent of its affiliated exchanges in the same way it will calculate Theoretical Price independent of non-affiliated exchanges.

[11] To the extent the TP Provider has been contacted by an Official of the Exchange, reviews the Theoretical Price provided but disagrees that there has been any error, then the Exchange would be bound to use the Theoretical Price provided by the TP Provider.

[12] In the context of a Significant Market Event, the Exchange may determine, ''in consultation with other options exchanges . . . that timely adjustment is not feasible due to the extraordinary nature of the situation.'' *See* Rule 20.6(e)(4).

resume normal operations within the next several hours based on communications with the TP Provider. More specifically with respect to Livevol, Livevol has business continuity and disaster recovery procedures that will help to ensure that the Theoretical Price tool remains available or, in the event of an outage, that service is restored in a timely manner.

The Exchange also notes that if a wide-scale event occurred, even if such event did not qualify as a ''Significant Market Event'' pursuant to Rule 20.6(e), and the TP Provider was unavailable or otherwise experiencing difficulty, the Exchange believes that it and other options exchanges would seek to coordinate to the extent possible. In particular, the Exchange and other options exchanges now have a process, administered by the Options Clearing Corporation, to invoke a discussion amongst all options exchanges in the event of any widespread or significant market events. The Exchange believes that this process could be used in the event necessary if there were an issue with the TP Provider.

The Exchange also proposes to adopt language in paragraph (d) of Interpretation and Policy .03 to Rule 20.6 to disclaim the liability of the Exchange and the TP Provider in connection with the proposed Rule, the TP Provider's calculation of Theoretical Price, and the Exchange's use of such Theoretical Price. Specifically, the proposed rule would state that neither the Exchange, the TP Provider, nor any affiliate of the TP Provider (the TP Provider and its affiliates are referred to collectively as the ''TP Provider''), makes any warranty, express or implied, as to the results to be obtained by any person or entity from the use of the TP Provider pursuant to Interpretation .03. The proposed rule would further state that the TP Provider does not guarantee the accuracy or completeness of the calculated Theoretical Price and that the TP Provider disclaims all warranties of merchantability or fitness for a particular purpose or use with respect to such Theoretical Price. Finally, the proposed Rule would state that neither the Exchange nor the TP Provider shall have any liability for any damages, claims, losses (including any indirect or consequential losses), expenses, or delays, whether direct or indirect, foreseen or unforeseen, suffered by any person arising out of any circumstance or occurrence relating to the use of such Theoretical Price or arising out of any errors or delays in calculating such Theoretical Price. This proposed language is modeled after existing language in Exchange Rules regarding ''reporting authorities'' that calculate indices.[13]

In connection with the proposed change described above, the Exchange proposes to modify Rule 20.6 to state that the Exchange will rely on paragraph (b) and Interpretation and Policy .03 when determining Theoretical Price.

No Valid Quotes—Market Participant Quoting on Multiple Exchanges

As described above, one of the times where the NBB or NBO is deemed to be unreliable for purposes of Theoretical Price is when there are no quotes or no valid quotes for the affected series. In addition to when there are no quotes, the Exchange does not consider the following to be valid quotes: (i) All quotes in the applicable option series published at a time where the last NBB is higher than the last NBO in such series (a ''crossed market''); (ii) quotes published by the Exchange that were submitted by either party to the transaction in question; and (iii) quotes published by another options exchange against which the Exchange has declared self-help. In recognition of today's market structure where certain participants actively provide liquidity on multiple exchanges simultaneously, the Exchange proposes to add an additional category of invalid quotes. Specifically, in order to avoid a situation where a market participant has established the market at an erroneous price on multiple exchanges, the Exchange proposes to consider as invalid the quotes in a series published by another options exchange if either party to the transaction in question submitted the quotes in the series representing such options exchange's best bid or offer. Thus, similar to being able to ignore for purposes of the Rule the quotes published by the Exchange if submitted by either party to the transaction in question, the Exchange would be able to ignore for purposes of the rule quotations on other options exchanges by that same market participant.

In order to continue to apply the Rule in a timely and organized fashion, however, the Exchange proposes to initially limit the scope of this proposed provision in two ways. First, because the process will take considerable coordination with other options exchanges to confirm that the quotations in question on an away options exchange were indeed submitted by a party to a transaction on the Exchange, the Exchange proposes to limit this provision to apply to up to twenty-five (25) total options series (*i.e.,* whether such series all relate to the same underlying security or multiple underlying securities). Second, the Exchange proposes to require the party that believes it established the best bid or offer on one or more other options exchanges to identify to the Exchange the quotes which were submitted by such party and published by other options exchanges. In other words, as proposed, the burden will be on the party seeking that the Exchange disregard their quotations on other options exchanges to identify such quotations. In turn, the Exchange will verify with such other options exchanges that such quotations were indeed submitted by such party.

Below are examples of both the current rule and the rule as proposed to be amended.

Example 1—Current Rule, Member Erroneously Quotes on One Exchange

Assumptions

For purposes of this example, assume the following:

- A Member acting as a Market Maker on the Exchange (''Market Maker A'') is quoting in twenty series of options underlying security ABCD on the Exchange (and only the Exchange).
- Market Maker A makes an error in calculating the market for options on ABCD, and publishes quotes in all twenty series to buy options at $1.00 and to sell options at $1.05.
- In fact, options on ABCD in these series are nearly worthless and no other market participant is quoting in such series.
- Therefore, the NBBO in the twenty series at issue is $1.00 × $1.05 (with the Exchange representing the NBBO based on Market Maker A's quotes).
- Assume Member A immediately enters sell orders and executes against Market Maker A's quotes at $1.00.
- Assume Market Maker A submits to the Exchange a timely request for review of the trades with Member A as potentially erroneous transactions to buy.

Result

- Based on the Exchange's current rules, the Exchange would identify Market Maker A as a participant to the trades at issue and would consider Market Maker A's quotations invalid pursuant to Rule 20.6(b)(2).
- As there were no other valid quotes to use as a reference price, the Exchange would then determine Theoretical Price.
- Assume the Exchange determines a Theoretical Price of $0.05.

[13] *See, e.g.,* Rule 29.13, which relates to index options potentially listed and traded on the Exchange and disclaims liability for a reporting authority and their affiliates.

○ The execution price of $1.00 exceeds the $0.25 minimum amount set forth in the Exchange's table to determine whether an obvious error has occurred (*i.e.,* $0.05 + $0.25 = $0.30) so any execution at or above this price is an obvious error.

○ Accordingly, the executions in all series would be adjusted by the Exchange to executions at $0.20 per contract (Theoretical Price of $0.05 plus $0.15) to the extent the incoming orders submitted by Member A were non-Customer orders.

○ The executions in all series would be nullified to the extent the incoming orders submitted by Member A were Customer orders.

Example 2—Current Rule, Member Erroneously Quotes on Multiple Exchanges

Assumptions

For purposes of this example, assume the following:

• A Member acting as a Market Maker on the Exchange (''Market Maker A'') is quoting in twenty series of options underlying security ABCD on the Exchange and on a second exchange (''Away Exchange'').

• Market Maker A makes an error in calculating the market for options on ABCD, and publishes quotes on both the Exchange and the Away Exchange in all twenty series to buy options at $1.00 and to sell options at $1.05.

• In fact, options on ABCD in these series are nearly worthless and no other market participant is quoting in such series.

• Therefore, the NBBO in the twenty series at issue is $1.00 × $1.05 (with the Exchange and the Away Exchange representing the NBBO based on Market Maker A's quotes).

• Assume Member A immediately enters sell orders and executes against Market Maker A's quotes at $1.00.

• Assume Market Maker A submits to the Exchange and to the Away Exchange timely requests for review of the trades with Member A as potentially erroneous transactions to buy.

Result

• Based on the Exchange's current rules, the Exchange would identify Market Maker A as a participant to the trades at issue and would consider Market Maker A's quotations on the Exchange invalid pursuant to Rule 20.6(b)(2). The Exchange, however, would view the Away Exchange's quotations as valid, and would thus determine Theoretical Price to be $1.05 (*i.e.,* the NBO in the case of a potentially erroneous buy transaction).

• The execution price of $1.00 does not exceed the $0.25 minimum amount set forth in the Exchange's table to determine whether an obvious error has occurred (*i.e.,* $1.05 + $0.25 = $1.30) so any execution at or above this price is an obvious error.

• The transactions on the Exchange would not be nullified or adjusted.

• As the Exchange and all other options exchanges have identical rules with respect to the process described above, the transactions on the Away Exchange would not be nullified or adjusted.

Example 3—Proposed Rule, Member Erroneously Quotes on Multiple Exchanges [14]

Assumptions

For purposes of this example, assume the following:

• A Member acting as a Market Maker on the Exchange (''Market Maker A'') is quoting in twenty series of options underlying security ABCD on the Exchange and on a second exchange (''Away Exchange'').[15]

• Market Maker A makes an error in calculating the market for options on ABCD, and publishes quotes on both the Exchange and the Away Exchange in all twenty series to buy options at $1.00 and to sell options at $1.05.

• In fact, options on ABCD in these series are nearly worthless and no other market participant is quoting in such series.

• Therefore, the NBBO in the twenty series at issue is $1.00 × $1.05 (with the Exchange and the Away Exchange representing the NBBO based on Market Maker A's quotes).

• Assume Member A immediately enters sell orders and executes against Market Maker A's quotes at $1.00.

• Assume Market Maker A submits to the Exchange and to the Away Exchange timely requests for review of the trades with Member A as potentially erroneous transactions to buy. At the time of submitting the requests for review to the Exchange and the Away Exchange, Market Maker A identifies to the Exchange the quotes on the Away Exchange as quotes also represented by Market Maker A (and to the Away Exchange, the quotes on the Exchange as quotes also represented by Market Maker A).

Result

• Based on the proposed rules, the Exchange would identify Market Maker A as a participant to the trades at issue and would consider Market Maker A's quotations on the Exchange invalid pursuant to Rule 20.6(b)(2).

• The Exchange and the Away Exchange would also coordinate to confirm that the quotations identified by Market Maker A on the other exchange were indeed Market Maker A's quotations. Once confirmed, each of the Exchange and the Away Exchange would also consider invalid the quotations published on the other exchange.

• As there were no other valid quotes to use as a reference price, the Exchange would then determine Theoretical Price.

• Assume the Exchange determines a Theoretical Price of $0.05.

○ The execution price of $1.00 exceeds the $0.25 minimum amount set forth in the Exchange's table to determine whether an obvious error has occurred (*i.e.,* $0.05 + $0.25 = $0.30) so any execution at or above this price is an obvious error.

○ Accordingly, the executions in all series would be adjusted by the Exchange to executions at $0.20 per contract (Theoretical Price of $0.05 plus $0.15) to the extent the incoming orders submitted by Member A were non-Customer orders.

○ The executions in all series would be nullified to the extent the incoming orders submitted by Member A were Customer orders.

• As the Exchange and all other options exchanges would have identical rules with respect to the process described above, as other options exchanges intend to adopt the same rule if the proposed rule is approved, the transactions on the Away Exchange would also be nullified or adjusted as set forth above.

• If this example was instead modified such that Market Maker A was quoting in 200 series rather than 20, the Exchange notes that Market Maker A could only request that the Exchange consider as invalid their quotations in 25 of those series on other exchanges. As noted above, the Exchange has proposed to limit the proposed rule to 25 series in order to continue to process requests for review in a timely and organized fashion in order to provide certainty to market participants. This is due to the amount of coordination that will be necessary in such a scenario to confirm that the quotations in question on an away options exchange were indeed submitted by a party to a transaction on the Exchange.

[14] The Exchange notes that its proposed rule will not impact the proposed handling of a request for review where a market participant is quoting only on the Exchange, thus, the Exchange has not included a separate example for such a fact-pattern.

[15] The Exchange notes that the proposed rule would operate the same if Market Maker A was quoting on more than two exchanges. The Exchange has limited the example to two exchanges for simplicity.

Trading Halts—Clarifying Change to Rule 20.3

Exchange Rule 20.3 describes the Exchange's authority to declare trading halts in one or more options traded on the Exchange. Currently, Rule 20.3 states that the Exchange shall nullify any transaction that occurs during a trading halt in the affected option on the Exchange or, with respect to equity options, during a trading halt on the primary listing market for the underlying security. The Exchange proposes to make clear with respect to equity options that it shall nullify any transaction that occurs during a regulatory halt as declared by the primary listing market for the underlying security. The Exchange believes this change is necessary to distinguish a declared regulatory halt, where the underlying security should not be actively trading on any venue, from an operational issue on the primary listing exchange where the security continues to safely trade on other trading venues.

Implementation Date

The Exchange proposes to delay the operative date of this proposal to a date within ninety (90) days after the Commission approved the Bats BZX proposal on July 6, 2017. The Exchange will announce the operative date in a Regulatory Circular made available to its Members.

2. Statutory Basis

The Exchange believes that its proposal is consistent with the requirements of the Act and the rules and regulations thereunder that are applicable to a national securities exchange, and, in particular, with the requirements of Section 6(b) of the Act.[16] Specifically, the proposal is consistent with Section 6(b)(5) of the Act[17] because it would promote just and equitable principles of trade, remove impediments to, and perfect the mechanism of, a free and open market and a national market system, and, in general, protect investors and the public interest.

As described above, the Exchange and other options exchanges are seeking to further modify their harmonized rules related to the adjustment and nullification of erroneous options transactions. The Exchange believes that the proposal to utilize a TP Provider in the event the NBBO is unavailable or unreliable will provide greater transparency and clarity with respect to the adjustment and nullification of erroneous options transactions. Particularly, the proposed changes seek to achieve consistent results for participants across U.S. options exchanges while maintaining a fair and orderly market, protecting investors and protecting the public interest. Thus, the Exchange believes that the proposal is consistent with Section 6(b)(5) of the Act[18] in that the proposed Rule will foster cooperation and coordination with persons engaged in regulating and facilitating transactions.

The Exchange again reiterates that it has retained the standard of the current rule for most reviews of options transactions pursuant to Rule 20.6, which is to rely on the NBBO to determine Theoretical Price if such NBBO can reasonably be relied upon. The proposal to use a TP Provider when the NBBO is unavailable or unreliable is consistent with Section 6(b)(5) of the Act[19] in that the proposed Rule will foster cooperation and coordination with persons engaged in regulating and facilitating transactions by further reducing the possibility of disparate results between options exchanges and increasing the objectivity of the application of Rule 20.6. Further, the Exchange believes that the proposed Rule is transparent with respect to the limited circumstances under which the Exchange will request a review and correction of Theoretical Price from the TP Provider, and has sought to limit such circumstances as much as possible. The Exchange notes that under the current Rule, Exchange personnel are required to determine Theoretical Price in certain circumstances and yet rarely do so because such circumstances have already been significantly limited under the harmonized rule (for example, because the wide quote provision of the harmonized rule only applies if the quote was narrower and then gapped but does not apply if the quote had been persistently wide). Thus, the Exchange believes it will need to request Theoretical Price from the TP Provider only in very rare circumstances and in turn, the Exchange anticipates that the need to contact the TP Provider for additional review of the Theoretical Price provided by the TP Provider will be even rarer. Similarly, the Exchange believes it is unlikely that an Exchange Official will ever be required to determine Theoretical Price, as such circumstance would only be in the event of a systems issue that has rendered the TP Provider's services unavailable and such issue cannot be corrected in a timely manner.

The Exchange also believes its proposal to adopt language in paragraph (d) of Interpretation and Policy .03 to Rule 20.6 to disclaim the liability of the Exchange and the TP Provider in connection with the proposed Rule, the TP Provider's calculation of Theoretical Price, and the Exchange's use of such Theoretical Price is consistent with the Act. As noted above, this proposed language is modeled after existing language in Exchange Rules regarding ''reporting authorities'' that calculate indices,[20] and is consistent with Section 6(b)(5) of the Act[21] in that the proposed Rule will foster cooperation and coordination with persons engaged in regulating and facilitating transactions.

As described above, the Exchange proposes a modification to the valid quotes provision to also exclude quotes in a series published by another options exchange if either party to the transaction in question submitted the orders or quotes in the series representing such options exchange's best bid or offer. The Exchange believes this proposal is consistent with Section 6(b)(5) of the Act[22] because the application of the rule will foster cooperation and coordination with persons engaged in regulating and facilitating transactions by allowing the Exchange to coordinate with other options exchanges to determine whether a market participant that is party to a potentially erroneous transaction on the Exchange established the market in an option on other options exchanges; to the extent this can be established, the Exchange believes such participant's quotes should be excluded in the same way such quotes are excluded on the Exchange. The Exchange also believes it is reasonable to limit the scope of this provision to twenty-five (25) series and to require the party that believes it established the best bid or offer on one or more other options exchanges to identify to the Exchange the quotes which were submitted by that party and published by other options exchanges. The Exchange believes these limitations are consistent with Section 6(b)(5) of the Act[23] because they will ensure that the Exchange is able to continue to apply the Rule in a timely and organized fashion, thus fostering cooperation and coordination with persons engaged in regulating and facilitating transactions and also removing impediments to and perfecting the mechanism of a free and

[16] 15 U.S.C. 78f(b).

[17] 15 U.S.C. 78f(b)(5).

[18] *Id.*

[19] *Id.*

[20] *See supra,* note 13.

[21] 15 U.S.C. 78f(b)(5).

[22] 15 U.S.C. 78f(b)(5).

[23] 15 U.S.C. 78f(b)(5).

open market and a national market system.

Finally, with respect to the proposed modification to the Exchange's trading halt rule, Rule 20.3, the Exchange believes that this proposal is consistent with Section 6(b)(5) of the Act23 because such proposal clarifies the provision by distinguishing between a trading halt in an underlying security where the security has halted trading across the industry (*i.e.,* a regulatory halt) from a situation where the primary exchange has experienced a technical issue but the underlying security continues to trade on other equities platforms. The Exchange notes that this distinction is already clear in the rules of certain other options exchanges, and thus, has been found to be consistent with the Act.[24]

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange believes the proposal is consistent with Section 6(b)(8) of the Act[25] in that it does not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act as explained below.

Importantly, the Exchange does not believe that the proposal will impose a burden on intermarket competition but rather that it will alleviate any burden on competition because it is the result of a collaborative effort by all options exchanges to further harmonize and improve the process related to the adjustment and nullification of erroneous options transactions. The Exchange does not believe that the rules applicable to such process is an area where options exchanges should compete, but rather, that all options exchanges should have consistent rules to the extent possible. Particularly where a market participant trades on several different exchanges and an erroneous trade may occur on multiple markets nearly simultaneously, the Exchange believes that a participant should have a consistent experience with respect to the nullification or adjustment of transactions. To that end, the selection and implementation of a TP Provider utilized by all options exchanges will further reduce the possibility that participants with potentially erroneous transactions that span multiple options exchanges are handled differently on such exchanges. Similarly, the proposed ability to consider quotations invalid on another options exchange if ultimately originating from a party to a potentially erroneous transaction on the Exchange represents a proposal intended to further foster cooperation by the options exchanges with respect to market events. The Exchange understands that all other options exchanges intend to file proposals that are substantially similar to this proposal.

The Exchange does not believe that the proposed rule change imposes a burden on intramarket competition because the proposed provisions apply to all market participants equally.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Exchange has neither solicited nor received written comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A)(iii) of the Act[26] and subparagraph (f)(6) of Rule 19b–4 thereunder.[27]

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is: (i) Necessary or appropriate in the public interest; (ii) for the protection of investors; or (iii) otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov*. Please include File Number SR–BatsEDGX–2017–36 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–BatsEDGX–2017–36. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549 on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of such filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–BatsEDGX–2017–36, and should besubmitted on or before September 28, 2017.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[28]

Eduardo A. Aleman,

Assistant Secretary.

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BILLING CODE 8011–01–P

[24] *See e.g.,* Interpretation and Policy .07 to CBOE Rule 6.3.

[25] 15 U.S.C. 78f(b)(8).

[26] 15 U.S.C. 78s(b)(3)(A)(iii).

[27] 17 CFR 240.19b–4(f)(6). In addition, Rule 19b–4(f)(6) requires a self-regulatory organization to give the Commission written notice of its intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

[28] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Investment Company Act Release No. 32802; 812–14777]

Eagle Series Trust, et al.

August 31, 2017.

AGENCY: Securities and Exchange Commission.

ACTION: Notice.

Notice of an application under section 6(c) of the Investment Company Act of 1940 (''Act'') for an exemption from section 15(a) of the Act and rule 18f–2 under the Act, as well as from certain disclosure requirements in rule 20a–1 under the Act, Item 19(a)(3) of Form N–1A, Items 22(c)(1)(ii), 22(c)(1)(iii), 22(c)(8) and 22(c)(9) of Schedule 14A under the Securities Exchange Act of 1934, and Sections 6–07(2)(a), (b), and (c) of Regulation S–X (''Disclosure Requirements''). The requested exemption would permit an investment adviser to hire and replace certain subadvisers without shareholder approval and grant relief from the Disclosure Requirements as they relate to fees paid to the subadvisers. The requested order would supersede a prior order.[1]

APPLICANTS: Eagle Capital Appreciation Fund, Eagle Growth & Income Fund and Eagle Series Trust (each, a ''Trust'' and collectively, the ''Trusts''), each a Massachusetts business trust registered under the Act as an open-end management investment company with multiple series (each a ''Fund''), and Carillon Tower Advisers, Inc. (the ''Initial Adviser''), a Florida corporation registered as an investment adviser under the Investment Advisers Act of 1940 (collectively with the Trusts, the ''Applicants'').

FILING DATES: The application was filed May 17, 2017, and amended on August 22, 2017.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the Commission orders a hearing. Interested persons may request a hearing by writing to the Commission's Secretary and serving Applicants with a copy of the request, personally or by mail. Hearing requests should be received by the Commission by 5:30 p.m. on September 25, 2017, and should be accompanied by proof of service on the Applicants, in the form of an affidavit or, for lawyers, a certificate of service. Pursuant to rule 0–5 under the Act, hearing requests should state the nature of the writer's interest, any facts bearing upon the desirability of a hearing on the matter, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by writing to the Commission's Secretary.

ADDRESSES: Secretary, U.S. Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090. Applicants: Susan L. Walzer, Carillon Tower Advisers, Inc., 880 Carillon Parkway, St. Petersburg, FL 33716 and Kathy Kresch Ingber, K&L Gates LLP, 1601 K Street NW., Washington, DC 20006–1600.

FOR FURTHER INFORMATION CONTACT: Laura L. Solomon, Senior Counsel, at (202) 551–6915, or David Marcinkus, Branch Chief, at (202) 551–6821 (Division of Investment Management, Chief Counsel's Office).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained via the Commission's Web site by searching for the file number, or an Applicant using the Company name box, at *http://www.sec.gov/search/search.htm* or by calling (202) 551–8090.

Summary of the Application

1. The Adviser serves as the investment adviser to each Fund pursuant to an investment advisory agreement with the Fund (the ''Investment Advisory Agreement'').[2] The Adviser provides the Funds with continuous and comprehensive investment management services subject to the supervision of, and policies established by, each Trust's board of Trustees (''Board''). The Investment Advisory Agreement permits the Adviser, subject to the approval of the Board, to delegate to one or more subadvisers (each, a ''Subadviser'' and collectively, the ''Subadvisers'') the responsibility to provide the day-to-day portfolio investment management of each Fund, subject to the supervision and direction of the Adviser.[3] The primary responsibility for managing the Subadvised Funds will remain vested in the Adviser. The Adviser will hire, evaluate, allocate assets to and oversee the Subadvisers, including determining whether a Subadviser should be terminated, at all times subject to the authority of the Board.

2. Applicants request an exemption to permit the Adviser, subject to Board approval, to hire certain Subadvisers pursuant to subadvisory agreements (each, a ''Subadvisory Agreement'' and collectively, the ''Subadvisory Agreements'') and materially amend Subadvisory Agreements without obtaining the shareholder approval required under section 15(a) of the Act and rule 18f–2 under the Act.[4] Applicants also seek an exemption from the Disclosure Requirements to permit a Subadvised Fund to disclose (as both a dollar amount and a percentage of the Subadvised Fund's net assets): (a) The aggregate fees paid to the Adviser and any Wholly-Owned Subadvisers; (b) the aggregate fees paid to Non-Affiliated Subadvisers, and (c) the fee paid to each Affiliated Subadviser.

3. Applicants agree that any order granting the requested relief will be subject to the terms and conditions stated in the application. Such terms and conditions provide for, among other safeguards, appropriate disclosure to Subadvised Fund's shareholders and notification about subadvisory changes and enhanced Board oversight to protect the interests of the Subadvised Fund's shareholders.

4. Section 6(c) of the Act provides that the Commission may exempt any person, security, or transaction or any class or classes of persons, securities, or transactions from any provisions of the Act, or any rule thereunder, if such relief is necessary or appropriate in the public interest and consistent with the

[1] *Eagle Capital Appreciation Fund, et al.,* Investment Company Act Rel. Nos. 31239 (Sep. 3, 2014) (notice) and 31269 (Sep. 29, 2014) (order).

[2] Applicants request relief with respect to the named Applicants, as well as to any future Fund and any other existing or future registered open-end management investment company or series thereof that intends to rely on the requested order in the future and that: (i) Is advised by the Adviser; (ii) uses the multi- manager structure described in the application; and (iii) complies with the terms and conditions of the application (each, together with any Fund that currently uses the multi-manager structure described in the application, a ''Subadvised Fund''). The term ''Adviser'' means (i) the Initial Adviser, (ii) its successors, and (iii) any entity controlling, controlled by, or under common control with, the Initial Adviser or its successors. For purposes of the requested order, ''successor'' is limited to an entity resulting from a reorganization into another jurisdiction or a change in the type of business organization.

[3] A ''Subadviser'' for a Fund is (1) an indirect or direct ''wholly owned subsidiary'' (as such term is defined in the Act) of the Adviser, or (2) a sister company of the Adviser that is an indirect or direct ''wholly-owned subsidiary'' (as such term is defined in the Act) of the same company that, indirectly or directly, wholly owns the Adviser (each of (1) and (2) a ''Wholly-Owned Subadviser'' and collectively, the ''Wholly-Owned Subadvisers''), or (3) not an ''affiliated person'' (as such term is defined in Section 2(a)(3) of the Act) of a Fund or the Adviser, except to the extent that an affiliation arises solely because the Subadviser serves as a subadviser to one or more Funds (each a ''Non-Affiliated Subadviser'' and collectively, the ''Non-Affiliated Subadvisers'').

[4] The requested relief will not extend to any subadviser, other than a Wholly-Owned Subadviser, who is an affiliated person, as defined in section 2(a)(3) of the Act, of the Subadvised Fund or of the Adviser, other than by reason of serving as a subadviser to one or more of the Subadvised Funds (''Affiliated Subadviser'').

protection of investors and purposes fairly intended by the policy and provisions of the Act. Applicants believe that the requested relief meets this standard because, as further explained in the application, the Investment Advisory Agreements will remain subject to shareholder approval, while the role of the Subadvisers is substantially equivalent to that of individual portfolio managers, so that requiring shareholder approval of Subadvisory Agreements would impose unnecessary delays and expenses on the Subadvised Fund. Applicants believe that the requested relief from the Disclosure Requirements meets this standard because it will improve the Adviser's ability to negotiate fees paid to the Subadvisers that are more advantageous for the Subadvised Fund.

For the Commission, by the Division of Investment Management, under delegated authority.

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2017–18932 Filed 9–6–17; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Investment Company Act Release No. 32804; 813–00387]

Hudson Advisors L.P., et al.

August 31, 2017.

AGENCY: Securities and Exchange Commission (''Commission'').

ACTION: Notice.

Notice of application for an order under sections 6(b) and 6(e) of the Investment Company Act of 1940 (the ''Act'') granting an exemption from all provisions of the Act and the rules and regulations thereunder, except sections 9, 17, 30, and 36 through 53 of the Act, and the rules and regulations thereunder (the ''Rules and Regulations''). With respect to sections 17(a), (d), (e), (f), (g) and (j) and 30(a), (b), (e), and (h) of the Act, and the Rules and Regulations, and rule 38a–1 under the Act, the exemption is limited as set forth in the application.

SUMMARY OF APPLICATION: Applicants request an order to exempt certain limited partnerships and other entities (''Partnerships'') formed for the benefit of eligible employees of Hudson Advisors L.P. (''Hudson'') and Lone Star Global Acquisitions, Ltd. (''LSGA'') and their affiliates (Hudson and LSGA, along with their affiliated companies and affiliated persons, collectively the ''Advisers'') from certain provisions of the Act. Each Partnership will be an ''employees' securities company'' within the meaning of section 2(a)(13) of the Act.

APPLICANTS: Hudson, LSGA, LSREF V Investments, L.P., HudCo Real Estate V, L.P., HudCo Real Estate V (Bermuda), L.P., HudCo Real Estate V (Europe I), L.P., HudCo Real Estate V (Europe II), L.P., HudCo GenPar RE V, LLC, HudCo GenPar RE V (Europe I), LLC, and HH GenPar RE V (Europe II), LLC.

FILING DATES: The application was filed on November 18, 2016 and was amended on April 13, 2017, June 23, 2017 and August 25, 2017.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the Commission orders a hearing. Interested persons may request a hearing by writing to the Commission's Secretary and serving applicants with a copy of the request, personally or by mail. Hearing requests should be received by the Commission by 5:30 p.m. on September 25, 2017, and should be accompanied by proof of service on applicants, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by writing to the Commission's Secretary.

ADDRESSES: Secretary, U.S. Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090; Applicants: c/o William D. Young, 2711 N. Haskell Avenue, Suite 1800, Dallas, TX 75204; c/o William D. Young, 2711 N. Haskell Avenue, Suite 1700, Dallas, TX 75204.

FOR FURTHER INFORMATION CONTACT: Elizabeth G. Miller, Senior Counsel, at (202) 551–8707, or Holly Hunter-Ceci, Assistant Chief Counsel, at (202) 551–6825 (Division of Investment Management, Chief Counsel's Office).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained via the Commission's Web site by searching for the file number, or for an applicant using the Company name box, at *http://www.sec.gov/search/search.htm* or by calling (202) 551–8090.

Applicants' Representations

1. The Advisers have organized, and may in the future organize, limited partnerships, limited liability companies, business trusts or other entities as ''employees' securities companies,'' as defined in section 2(a)(13) of the Act (each a ''Partnership'' and, collectively, the ''Partnerships'').

2. A Partnership may be organized under the laws of the state of Delaware, another state, or a jurisdiction outside the United States. A Partnership may serve as the master fund of one or more other Partnerships (such entities, ''Master Partnerships''). A Partnership may be organized under the laws of a non-U.S. jurisdiction to address any tax, legal, accounting and regulatory considerations applicable to certain Eligible Employees (as defined below) in other jurisdictions or the nature of the program. Interests in a Partnership (''Interests'') may be issued in one or more series, each of which corresponds to particular Partnership investments (each, a ''Series''). Each Series will be an ''employees' securities company'' within the meaning of section 2(a)(13) of the Act. Each Partnership will operate as a closed-end management investment company, and a particular Partnership may operate as a ''diversified'' or ''non-diversified'' vehicle within the meaning of the Act. The Partnerships are intended to provide investment opportunities for Eligible Employees that are competitive with those at other investment management and financial services firms and to facilitate the recruitment and retention of high caliber professionals. The Advisers will control each Partnership within the meaning of section 2(a)(9) of the Act.

3. The initial Master Partnership, LSREF V Investments, L.P., is a Bermuda exempted limited partnership established on February 17, 2016. HudCO GenPar RE V, LLC is its general partner and Hudson serves as its investment adviser. HudCO Real Estate V, L.P., a Delaware limited partnership, was established on February 23, 2016. HudCo GenPar RE V, LLC is its general partner and Hudson serves as its investment adviser. HudCo Real Estate V (Bermuda), L.P., a Bermuda exempted limited partnership, was established on February 17, 2016. HudCo GenPar RE V, LLC is its general partner and Hudson serves as its investment adviser. HudCo Real Estate V (Europe I), L.P., a Bermuda exempted limited partnership, was established on February 17, 2016. HudCo GenPar RE V (Europe I), LLC is its general partner and Hudson serves as its investment adviser. HudCo Real Estate V (Europe II), L.P., a Delaware limited partnership, was established on September 8, 2016. HH GenPar RE V (Europe II), LLC is its general partner and Hudson serves as its investment adviser. The Advisers provide certain advisory and related services to a family of closed-end, privately offered funds (the ''Funds''), which invest globally in

a broad range of real estate, equity, credit and other financial assets.

4. Each Partnership will have a general partner, managing member or other such similar entity (a ''General Partner''). All investors in a Partnership will be ''Limited Partners.'' The General Partner will be responsible for the overall management of each Partnership and will have the authority to make all decisions regarding the management control, and direction of the Partnership and its operations, business, and affairs. An Adviser entity may be a General Partner of each Partnership. The General Partner may be permitted to delegate certain of its responsibilities regarding the acquisition, management and disposition of Partnership investments to an Investment Adviser (as defined below), provided that the ultimate responsibility for, and control of, each Partnership, remain with the applicable General Partner.

5. The General Partner or another Adviser entity will serve as investment adviser to a Partnership (the ''Investment Adviser''). The Investment Adviser will be registered as an investment adviser under the Investment Advisers Act of 1940 (the ''Advisers Act''), if required under applicable law. Each Investment Adviser shall comply with the standards prescribed in sections 9, 36 and 37 of the Act. The Applicants represent and concede that each General Partner and Investment Adviser managing a Partnership is an ''investment adviser'' within the meaning of sections 9 and 36 of the Act and is subject to those sections. An Investment Adviser may be paid a management fee, which will generally be determined as a percentage of the capital commitments or assets under management (appreciated capital commitments) of the Limited Partners. A General Partner or Investment Adviser may receive a performance-based fee (a ''Carried Interest'') based on the net gains of the Partnership's investments in addition to any amount allocable to the General Partner's or Investment Adviser's capital contribution.[1]

6. If the General Partner determines that a Partnership enter into any side-by-side investment with an unaffiliated entity, the General Partner will be permitted to engage as sub-investment adviser the unaffiliated entity (an ''Unaffiliated Subadviser''), which will be responsible for the management of such side-by-side investment.

7. Interests in a Partnership will be offered without registration in reliance on section 4(a)(2) of the Securities Act of 1933 (the ''Securities Act''), or Regulation D or Regulation S under the Securities Act, and will be sold only to: (i) Eligible Employees; (ii) at the request of Eligible Employees and the discretion of the General Partner, to Qualified Participants (as defined below) of such Eligible Employees; or (iii) to Adviser entities. Prior to offering Interests to an Eligible Employee or an Eligible Family Member (as defined below), a General Partner must reasonably believe that the Eligible Employee or Eligible Family Member will be capable of understanding and evaluating the merits and risks of participating in a Partnership and that each such individual is able to bear the economic risk of such participation and afford a complete loss of his or her investments in a Partnership. Investing in the Partnerships will be voluntary on the part of Eligible Employees and Qualified Participants.

8. To qualify as an ''Eligible Employee,'' (a) an individual must (i) be a current or former employee, officer or director or current Consultant[2] of the Advisers and (ii) except for certain individuals who meet the definition of ''knowledgeable employee'' in Rule 3c–5(a)(4) under the Act as if the Partnerships were ''Covered Companies'' within the meaning of the rule and a limited number of other employees of the Advisers[3] (collectively, ''*Non-Accredited Investors*''), meet the standards of an ''accredited investor'' under Rule 501(a)(5) or (a)(6) of Regulation D, or (b) an entity must (i) be a current Consultant of the Advisers and (ii) meet the standards of an ''accredited investor'' under Rule 501(a) of Regulation D. A Partnership may not have more than 35 Non-Accredited Investors. At the request of an Eligible Employee and the discretion of the General Partner, Interests may be assigned by such Eligible Employee, or sold directly by the Partnership, to a Qualified Participant of an Eligible Employee. In order to qualify as a ''Qualified Participant,'' an individual or entity must (i) be an Eligible Family Member or Eligible Investment Vehicle (in each case as defined below), respectively, of an Eligible Employee and (ii) if purchasing an Interest from a Partnership, except as discussed below, come within one of the categories of an ''accredited investor'' under Rule 501(a) of Regulation D. An ''Eligible Family Member'' is a spouse, parent, child, spouse of child, brother, sister or grandchild of an Eligible Employee, including step and adoptive relationships. An ''Eligible Investment Vehicle'' is (a) a trust of which the trustee, grantor and/or beneficiary is an Eligible Employee, (b) a partnership, corporation or other entity controlled by an Eligible Employee,[4] or (c) a trust or other entity established solely for the benefit of an Eligible Employee and/or

[1] If a General Partner or Investment Adviser is registered under the Advisers Act, the Carried Interest payable to it by a Partnership will be pursuant to an arrangement that complies with rule 205–3 under the Advisers Act. If the General Partner or Investment Adviser is not required to register under the Advisers Act, the Carried Interest payable to it will comply with section 205(b)(3) of the Advisers Act (with such Partnership treated as though it were a business development company solely for the purpose of that section).

[2] A ''Consultant'' is a person or entity whom the Advisers have engaged on retainer to provide services and professional expertise on an ongoing basis as a regular consultant or as a business or legal adviser and who shares a community of interest with the Advisers and the Advisers' employees. In order to participate in a Partnership, Consultants must be currently engaged with the Advisers and will be required to be sophisticated investors who qualify as accredited investors (''Accredited Investors'') under Rule 501(a) of Regulation D under the Securities Act. If a Consultant is an entity (such as, for example, a law firm or consulting firm), and the Consultant proposes to invest in the Partnership through a partnership, corporation or other entity that is controlled by the Consultant, the individual participants in such partnership, corporation or other entity will be limited to senior level employees, members or partners of the Consultant who are responsible for the activities of the Consultant and will be required to qualify as Accredited Investors. In addition, such entities will be limited to businesses controlled by individuals who have levels of expertise and sophistication in the area of investments in securities that are comparable to other Eligible Employees who are employees, officers or directors of the Advisers and who have an interest in maintaining an ongoing relationship with the Advisers. The individuals participating through such entities will belong to that class of persons who will have access to the directors and officers of the General Partner and/or the officers of the Advisers responsible for making investments for the Partnerships similar to the access afforded other Eligible Employees who are employees, officers or directors of the Advisers.

[3] Such employees must meet the sophistication requirements set forth in Rule 506(b)(2)(ii) of Regulation D under the Securities Act and may be permitted to invest his or her own funds in the Partnership if, at the time of the employee's investment in a Partnership, he or she (a) has a graduate degree in business, law or accounting, (b) has a minimum of five years of consulting, investment banking or similar business experience, and (c) has had reportable income from all sources of at least $100,000 in each of the two most recent years and a reasonable expectation of income from all sources of at least $140,000 in each year in which such person will be committed to make investments in a Partnership. In addition, such an employee will not be permitted to invest in any year more than 10% of his or her income from all sources for the immediately preceding year in the aggregate in such Partnership and in all other Partnerships in which he or she has previously invested.

[4] The inclusion of partnerships, corporations, or other entities controlled by an Eligible Employee in the definition of ''Eligible Investment Vehicle'' is intended to enable Eligible Employees to make investments in the Partnerships through personal investment vehicles for the purpose of personal and family investment and estate planning objectives.

one or more Eligible Family Members of an Eligible Employee.

9. An Eligible Employee or Eligible Family Member may purchase an Interest through an Eligible Investment Vehicle only if either (i) the investment vehicle is an accredited investor, as defined in rule 501(a) of Regulation D under the Securities Act or (ii) the applicable Eligible Employee or Eligible Family Member is a settlor [5] and principal investment decision-maker with respect to the investment vehicle. Eligible Investment Vehicles that are not accredited investors will be included in accordance with Regulation D toward the 35 Non-Accredited Investor limit discussed above.

10. While the terms of a Partnership will be determined by the Advisers in their discretion, these terms will be fully disclosed to each Eligible Employee and, if a Qualified Participant of such Eligible Employee is required to make an investment decision with respect to whether or not to participate in a Partnership, to such Qualified Participant, at the time such Eligible Employee or Qualified Participant is invited to participate in the Partnership. A Partnership will send its Limited Partners an annual financial statement within 120 days, or as soon as practicable, after the end of the Partnership's fiscal year. The financial statement will be audited [6] by independent certified public accountants. In addition, as soon as practicable after the end of each fiscal year of a Partnership, a report will be sent to each Limited Partner setting forth the information with respect such Limited Partner's share of income, gains, losses, credits, and other items for federal and state income tax purposes.

11. Interests in each Partnership will be non-transferable except with the prior written consent of the General Partner, and, in any event, no person or entity will be admitted into the Partnership as a Limited Partner unless such person is (i) an Eligible Employee, (ii) a Qualified Participant or (iii) an Adviser entity. No sales load or similar fee of any kind will be charged in connection with the sale of Interests.

12. The Applicant states that a General Partner may have the right to repurchase or cancel the Interest of (i) an Eligible Employee who ceases to be an employee, officer, director or current Consultant of any Adviser entity for any reason or (ii) any Qualified Participant of any person described in clause (i). Once a Consultant's ongoing relationship with an Adviser entity is terminated: (i) such Consultant and its Qualified Participants, if any, will not be permitted to contribute any additional capital to a Partnership; and (ii) the existing Interests of such Consultant and its Qualified Participants, if any, as of the date of such termination will (A) to the extent the governing documents of a Partnership provide for periodic redemptions in the ordinary course, be redeemed as of the next regularly scheduled redemption date and (B) to the extent the governing documents of a Partnership do not provide for such periodic redemptions (*e.g.,* as a result of the vehicle primarily investing in illiquid investments), be retained. The Partnership Agreement or private placement memorandum for each Partnership will describe, if applicable, the amount that a Limited Partner would receive upon repurchase, cancellation or forfeiture of its Interest. A Limited Partner would receive upon repurchase, cancellation or forfeiture of its Interest, at a minimum, the lesser of (i) the amount actually paid by or (subject to any vesting requirements) on behalf of the Limited Partner to acquire the Interest, plus interest, less any distributions, and (ii) the fair market value of the Interest determined at the time of the repurchase or cancellation as determined in good faith by the General Partner. The amount to be received by the Limited Partner will be subject to any applicable vesting schedule or forfeiture provisions and to the extent there is an oversubscription for a regularly scheduled redemption, existing Interests of the Limited Partner will be redeemed on a pro rata basis with all other Limited Partners who have made a request, in accordance with the governing documents, to be redeemed as of that redemption date and any subsequent regularly scheduled redemption date until all of such Limited Partner's existing Interests are redeemed.

13. The Applicant states that the Partnerships may invest either directly or through investments in limited partnerships and other investment pools (including pools that are exempt from registration in reliance on section 3(c)(1) or 3(c)(7) of the Act) and investments in registered investment companies.[7] Investments may be made side by side with Adviser entities and through investment pools (including ''Aggregation Vehicles'') [8] sponsored or managed by an Adviser entity or an unaffiliated entity.

14. The Applicant states that a Partnership may also co-invest in a portfolio company with the Advisers or an investment fund or separate account organized primarily for the benefit of investors who are not affiliated with the Advisers over which an Adviser entity or an Unaffiliated Subadviser exercises investment discretion (''Third Party Funds''). The General Partner will not delegate management and investment discretion for the Partnership to an Unaffiliated Subadviser or a sponsor of a Third Party Fund. Side-by-side investments held by a Third Party Fund, or by an Adviser entity in a transaction in which the Adviser investment was made pursuant to a contractual obligation to a Third Party Fund, will not be subject to the restrictions contained in Condition 3 below. All other side-by-side investments held by Adviser entities will be subject to the restrictions contained in Condition 3.

15. A Partnership will not borrow from any person if the borrowing would cause any person not named in section 2(a)(13) of the Act to own securities of the Partnership (other than short-term paper). A Partnership will not make any loans to the Advisers, their subsidiaries or any entity that controls the Advisers.[9] A Partnership will not borrow from any person if the borrowing would cause the Partnership not to be an ''employees' securities company'' as defined in Section 2(a)(13) of the Act. Any

[5] If such investment vehicle is an entity other than a trust, the term ''settlor'' will be read to mean a person who created such vehicle, alone or together with other Eligible Employees and/or Eligible Family Members, and contributed funds to such vehicle.

[6] ''Audit'' will have the meaning defined in rule 1–02(d) of Regulation S–X.

[7] The Applicant is not requesting any exemption from any provision of the Act or any rule thereunder that may govern the eligibility of a Partnership to invest in an entity relying on section 3(c)(1) or 3(c)(7) of the Act or any such entity's status under the Act.

[8] An ''Aggregation Vehicle'' is an investment pool sponsored or managed by an Adviser entity that is formed solely for the purpose of permitting a Partnership and other Adviser entities or Third Party Funds to collectively invest in other entities. The Applicant states that it may be more efficient for a Partnership and other Adviser entities and Third Party Funds to invest in an entity together through an Aggregation Vehicle rather than having each investor separately acquire a direct interest in such entity. An Aggregation Vehicle will not be used to issue interests that discriminate against a Partnership or provide preferential treatment to an Adviser entity or other Adviser-related investors with respect to a portfolio company investment. The Applicant submits that because no investment decisions are made at the Aggregation Vehicle level, the fact that a person who participates in the Partnership's decision to acquire an interest in an Aggregation Vehicle also serves as an officer, director, general partner or investment adviser of the Aggregation Vehicle would not create a conflict of interest on the part of such person.

[9] A Partnership may, subject to the terms and conditions set out herein, make investments in issuers that are portfolio companies of funds managed by the Advisers, and such investments may take the form of loans.

indebtedness of a Partnership, other than indebtedness incurred specifically on behalf of a Limited Partner where the Limited Partner has agreed to guarantee the loan or to act as co-obligor of the loan, will be the debt of the Partnership and without recourse to the Limited Partners.

16. In compliance with section 12(d)(1)(A)(i) of the Act, a Partnership will not purchase or otherwise acquire any security issued by a registered investment company if, immediately after the acquisition, the Partnership will own, in the aggregate, more than 3% of the outstanding voting stock of the registered investment company.

Applicant's Legal Analysis

1. Section 6(b) of the Act provides that, upon application, the Commission will exempt employees' securities companies from the provisions of the Act to the extent that the exemption is consistent with the protection of investors. Section 6(b) provides that the Commission will consider, in determining the provisions of the Act from which the company should be exempt, the company's form of organization and capital structure, the persons owning and controlling its securities, the price of the company's securities and the amount of any sales load, how the company's funds are invested, and the relationship between the company and the issuers of the securities in which it invests. Section 2(a)(13) defines an employees' securities company, in relevant part, as any investment company all of whose securities (other than short-term paper) are beneficially owned (a) by current or former employees, or persons on retainer, of one or more affiliated employers, (b) by immediate family members of such persons, or (c) by such employer or employers together with any of the persons in (a) or (b).

2. Section 7 of the Act generally prohibits investment companies that are not registered under section 8 of the Act from selling or redeeming their securities. Section 6(e) of the Act provides that, in connection with any order exempting an investment company from any provision of section 7, certain provisions of the Act, as specified by the Commission, will be applicable to the company and other persons dealing with the company as though the company were registered under the Act. The Applicants request an order under sections 6(b) and 6(e) of the Act exempting the Partnerships from all provisions of the Act, except sections 9, 17, 30, and 36 through 53 of the Act, and the Rules and Regulations. With respect to sections 17(a), (d), (e), (f), (g), and (j) and 30(a), (b), (e), and (h) of the Act, and the Rules and Regulations, and rule 38a–1 under the Act, the exemption is limited as set forth in the application.

3. Section 17(a) generally prohibits any affiliated person of a registered investment company, or any affiliated person of an affiliated person, acting as principal, from knowingly selling or purchasing any security or other property to or from the company. The Applicants request an exemption from section 17(a) to the extent necessary to permit an Adviser entity or a Third Party Fund (or any affiliated person of any such Adviser entity or Third Party Fund), acting as principal, to purchase or sell securities or other property to or from any Partnership or any company controlled by such Partnership. Any such transaction to which any Partnership is a party will be effected only after a determination by the General Partner that the requirements of condition 1 below have been satisfied. In addition, the Applicants, on behalf of the Partnerships, represents that any transactions otherwise subject to section 17(a) of the Act, for which exemptive relief has not been requested, would require approval of the Commission.

4. The Applicants submit that an exemption from section 17(a) is consistent with the purposes of the Partnerships and the protection of investors. The Applicants state that the Limited Partners will be informed of the possible extent of the Partnership's dealings with the Advisers and of the potential conflicts of interest that may exist. The Applicants also state that, as professionals engaged in financial services businesses, the Limited Partners will be able to evaluate the risks associated with those dealings. The Applicants assert that the community of interest among the Limited Partners and the Advisers and the Funds will serve to reduce the risk of abuse. The Applicants acknowledge that the requested relief will not extend to any transactions between a Partnership and an Unaffiliated Subadviser or an affiliated person of an Unaffiliated Subadviser, or between a Partnership and any person who is not an employee, officer or director of the Advisers or is an entity outside of the Advisers and is an affiliated person of the Partnership as defined in section 2(a)(3)(E) of the Act (''Advisory Person'') or any affiliated person of such a person.

5. Section 17(d) of the Act and rule 17d–1 under the Act prohibit any affiliated person or principal underwriter of a registered investment company, or any affiliated person of such person or principal underwriter, acting as principal, from participating in any joint arrangement with the company unless authorized by the Commission. The Applicants request relief to permit affiliated persons of the Partnerships (such as the Funds), or affiliated persons of any of such persons, to participate in, or effect any transaction in connection with, any joint enterprise or other joint arrangement or profit-sharing plan in which a Partnership or a company controlled by the Partnerships participate. The Applicants acknowledge that the requested relief will not extend to any transaction in which an Unaffiliated Subadviser or an Advisory Person, or an affiliated person of either such person, has an interest, except in connection with a Third Party Fund sponsored by an Unaffiliated Subadviser.

6. The Applicants assert that compliance with section 17(d) would cause the Partnership to forego investment opportunities simply because the Funds, a Limited Partner, the General Partner or any other affiliated person of the Partnership (or any affiliate of the affiliated person) made a similar investment. The Applicants submit that the types of investment opportunities in which the Partnerships will co-invest with the Funds require each investor to make funds available in an amount that may be substantially greater than what a Partnership (including its Eligible Employees and Qualified Participants) may be able to make available on its own. The Applicants contend that, as a result, the only way in which a Partnership (and thus its Eligible Employees and Qualified Participants) may be able to participate in these opportunities is to co-invest with the Funds, which would be affiliated persons, as defined in section 2(a)(3) of the Act. The Applicants assert that the flexibility to structure co-investments and joint investments will not involve abuses of the type section 17(d) and rule 17d–1 were designed to prevent. In addition, the Applicants represent that any transactions otherwise subject to section 17(d) of the Act and rule 17d–1 thereunder, for which exemptive relief has not been requested, would require approval by the Commission.

7. Co-investments with Third Party Funds, or by an Adviser entity pursuant to a contractual obligation to a Third Party Fund, will not be subject to condition 3 below. The Applicants note that it is common for a Third Party Fund to require that the Advisers invest their own capital in Third Party Fund investments, and that the Advisers' investments be subject to substantially the same terms as those applicable to

the Third Party Fund. The Applicants believe it is important that the interests of the Third Party Fund take priority over the interests of the Partnerships, and that the Third Party Fund not be burdened or otherwise affected by activities of the Partnerships. In addition, the Applicants assert that the relationship of a Partnership to a Third Party Fund is fundamentally different from a Partnership's relationship to the Advisers. The Applicants contend that the focus of, and the rationale for, the protections contained in the requested relief are to protect the Partnerships from any overreaching by the Advisers in the employer/employee context, whereas the same concerns are not present with respect to the Partnerships vis-à-vis a Third Party Fund.

8. Section 17(e) of the Act and rule 17e–1 under the Act limit the compensation an affiliated person may receive when acting as agent or broker for a registered investment company. The Applicant requests an exemption from section 17(e) to permit an Adviser entity (including the General Partner) that acts as an agent or broker to receive placement fees, advisory fees, or other compensation from a Partnership in connection with the purchase or sale by the Partnership of securities, provided that the fees or other compensation are deemed ''usual and customary.'' The Applicants state that for purposes of the application, fees or other compensation that are charged or received by an Adviser entity will be deemed ''usual and customary'' only if (a) the Partnership is purchasing or selling securities with other unaffiliated third parties, including Third Party Funds, (b) the fees or other compensation being charged to the Partnership (directly or indirectly) are also being charged to the unaffiliated third parties, including Third Party Funds, and (c) the amount of securities being purchased or sold by the Partnership (directly or indirectly) does not exceed 50% of the total amount of securities being purchased or sold by the Partnership (directly or indirectly) and the unaffiliated third parties, including Third Party Funds. The Applicants assert that, because the Advisers do not wish to appear to be favoring the Partnerships, compliance with section 17(e) would prevent a Partnership from participating in transactions where the Partnership is being charged lower fees than unaffiliated third parties. The Applicants assert that the fees or other compensation paid by a Partnership to an Adviser entity will be the same as those negotiated at arm's length with unaffiliated third parties.

9. Rule 17e–1(b) under the Act requires that a majority of directors who are not ''interested persons'' (as defined in section 2(a)(19) of the Act) take actions and make approvals regarding commissions, fees, or other remuneration. Rule 17e–1(c) under the Act requires each investment company relying on the rule to satisfy the fund governance standards defined in rule 0–1(a)(7) under the Act (the ''Fund Governance Standards''). The Applicants request an exemption from rule 17e–1 to the extent necessary to permit each Partnership to comply with the rule without having a majority of the directors of the General Partner who are not interested persons take actions and make determinations as set forth in paragraph (b) of the rule, and without having to satisfy the standards set forth in paragraph (c) of the rule. The Applicants state that because all the directors of the General Partner will be affiliated persons, without the relief requested, a Partnership could not comply with rule 17e–1. The Applicants state that each Partnership will comply with rule 17e–1 by having a majority of the directors of the General Partner take actions and make approvals as set forth in the rule. The Applicants state that each Partnership will otherwise comply with rule 17e–1.

10. Section 17(f) of the Act designates the entities that may act as investment company custodians, and rule 17f–1 under the Act imposes certain requirements when the custodian is a member of a national securities exchange. The Applicants request an exemption from section 17(f) and subsections (a), (b) (to the extent such subsection refers to contractual requirements), (c), and (d) of rule 17f–1 to permit an Adviser entity to act as custodian of Partnership assets without a written contract. The Applicants also request an exemption from the rule 17f–1(b)(4) requirement that an independent accountant periodically verify the assets held by the custodian. The Applicants state that, because of the community of interest between the Advisers and the Partnerships and the existing requirement for an independent audit, compliance with this requirement would be unnecessary. The Applicants will comply with all other requirements of rule 17f–1.

11. The Applicants also request an exemption from section 17 and rule 17f–2 to permit the following exceptions from the requirements of rule 17f–2: (a) A Partnership's investments may be kept in the locked files of the Advisers, the General Partner or the Investment Adviser; (b) for purposes of paragraph (d) of the rule, (i) employees of the General Partner (or the Advisers) will be deemed to be employees of the Partnerships, (ii) officers or managers of the General Partner of a Partnership (or the Advisers) will be deemed to be officers of the Partnership and (iii) the General Partner of a Partnership or its board of directors will be deemed to be the board of directors of a Partnership and (c) in place of the verification procedure under paragraph (f) of the rule, verification will be effected quarterly by two employees, each of whom will have sufficient knowledge, sophistication and experience in business matters to perform such examination. The Applicants expect that, with respect to certain Partnerships, some of their investments may be evidenced only by partnership agreements, participation agreements or similar documents, rather than by negotiable certificates that could be misappropriated. The Applicants assert that for such a Partnership, these instruments are most suitably kept in the files of the Advisers, the General Partner, or the Adviser entity that serves as investment adviser to the Partnership, where they can be referred to as necessary. The Applicants will comply with all other provisions of rule 17f–2.

12. Section 17(g) of the Act and rule 17g–1 under the Act generally require the bonding of officers and employees of a registered investment company who have access to its securities or funds. Rule 17g–1 requires that a majority of directors who are not interested persons of a registered investment company take certain actions and give certain approvals relating to fidelity bonding. The rule also requires that the board of directors of an investment company relying on the rule satisfy the Fund Governance Standards. The Applicants request relief to permit the General Partner's board of directors, who may be deemed interested persons, to take actions and make determinations as set forth in the rule. The Applicants state that, because all directors or other governing body of the General Partner will be affiliated persons, a Partnership could not comply with rule 17g–1 without the requested relief. Specifically, each Partnership will comply with rule 17g–1 by having a majority of the applicable General Partner's directors (or members of a comparable body) take actions and make determinations as set forth in rule 17g–1. The Applicants also request an exemption from the requirements of: (i) Paragraph (g) of the rule relating to the filing of copies of fidelity bonds and related information with the

Commission and the provision of notices to the board of directors; (ii) paragraph (h) of the rule relating to the appointment of a person to make the filings and provide the notices required by paragraph (g); and (iii) paragraph (j)(3) of the rule relating to compliance with the Fund Governance Standards. The Applicants state that the fidelity bond of each Partnership will cover the Advisers' employees who have access to the securities and funds of the Partnership. The Applicants state that the Partnerships will comply with all other requirements of rule 17g–1.

13. Section 17(j) of the Act and paragraph (b) of rule 17j–1 under the Act make it unlawful for certain enumerated persons to engage in fraudulent or deceptive practices in connection with the purchase or sale of a security held or to be acquired by a registered investment company. Rule 17j–1 also requires that every registered investment company adopt a written code of ethics and that every access person of a registered investment company report personal securities transactions. The Applicants request an exemption from section 17(j) and the provisions of rule 17j–1, except for the anti-fraud provisions of paragraph (b), because they assert that these requirements are unnecessarily burdensome as applied to the Partnerships. The relief requested will only extend to Adviser entities and is not requested with respect to any Unaffiliated Subadviser or Advisory Person.

14. The Applicants request an exemption from the requirements in sections 30(a), 30(b), and 30(e) of the Act, and the rules under those sections, that registered investment companies prepare and file with the Commission and mail to their shareholders certain periodic reports and financial statements. The Applicant contends that the forms prescribed by the Commission for periodic reports have little relevance to the Partnerships and would entail administrative and legal costs that outweigh any benefit to the Limited Partners. The Applicant requests exemptive relief to the extent necessary to permit each Partnership to report annually to its Limited Partners, as described in the application. The Applicants also request an exemption from section 30(h) of the Act to the extent necessary to exempt the General Partner of each Partnership, members of the General Partner or any board of managers or directors or committee of the Advisers' employees to whom the General Partner may delegate its functions, and any other persons who may be deemed to be members of an advisory board of a Partnership, from filing Forms 3, 4, and 5 under section 16(a) of the Exchange Act with respect to their ownership of Interests in the Partnership. The Applicants assert that, because there will be no trading market and the transfers of Interests will be severely restricted, these filings are unnecessary for the protection of investors and burdensome to those required to make them.

15. Rule 38a–1 requires registered investment companies to adopt, implement and periodically review written policies reasonably designed to prevent violation of the federal securities laws and to appoint a chief compliance officer. Each Partnership will comply will rule 38a–1(a), (c) and (d), except that (i) since the Partnership does not have a board of directors, the board of directors or other governing body of the General Partner will fulfill the responsibilities assigned to the Partnership's board of directors under the rule, and (ii) since the board of directors or other governing body of the General Partner does not have any disinterested members, (a) approval by a majority of the disinterested board members required by rule 38a–1 will not be obtained, and (b) the Partnerships will comply with the requirement in rule 38a–1(a)(4)(iv) that the chief compliance officer meet with the independent directors by having the chief compliance officer meet with the board of directors of the General Partner as constituted.

Applicants' Conditions

The Applicants agree that any order granting the requested relief will be subject to the following conditions:

1. Each proposed transaction involving a Partnership otherwise prohibited by section 17(a) or section 17(d) of the Act and rule 17d–1 under the Act to which a Partnership is a party (the ''Section 17 Transactions'') will be effected only if the applicable General Partner determines that (i) the terms of the Section 17 Transaction, including the consideration to be paid or received, are fair and reasonable to the Limited Partners of the Partnership and do not involve overreaching of the Partnership or its Limited Partners on the part of any person concerned, and (ii) the Section 17 Transaction is consistent with the interests of the Limited Partners, the Partnership's organizational documents and the Partnership's reports to its Limited Partners.[10]

In addition, the applicable General Partner of a Partnership will record and preserve a description of all Section 17 Transactions, the General Partner's findings, the information or materials upon which the findings are based and the basis for the findings. All such records will be maintained for the life of the Partnership and at least six years thereafter and will be subject to examination by the Commission and its staff.[11]

2. The General Partner of each Partnership will adopt, and periodically review and update, procedures designed to ensure that reasonable inquiry is made, prior to the consummation of any Section 17 Transaction, with respect to the possible involvement in the transaction of any affiliated person or promoter of or principal underwriter for the Partnership or any affiliated person of such person, promoter or principal underwriter.

3. The General Partner of each Partnership will not invest the funds of the Partnership in any investment in which an ''Affiliated Co-Investor'' (as defined below) has acquired or proposes to acquire the same class of securities of the same issuer and where the investment transaction involves a joint enterprise or other joint arrangement within the meaning of Rule 17d–1 in which the Partnership and an Affiliated Co-Investor are participants (each such investment, a ''Rule 17d–1 Investment''), unless any such Affiliated Co-Investor, prior to disposing of all or part of its investment, (i) gives the General Partner sufficient, but not less than one day's, notice of its intent to dispose of its investment; and (ii) refrains from disposing of its investment unless the Partnership has the opportunity to dispose of the Partnership's investment prior to or concurrently with, on the same terms as, and pro rata with the Affiliated Co-Investor.[12] The term ''Affiliated Co-Investor'' with respect to any Partnership means any person who is: (i) An ''affiliated person'' (as such term is defined in section 2(a)(3) of the Act) of the Partnership (other than a Third

[10] If a Partnership invests through an Aggregation Vehicle and such investment is a Section 17 Transaction, this condition will apply with respect to both the investment in the Aggregation Vehicle and any investment by the Aggregation Vehicle of Partnership funds.

[11] Each Partnership will preserve the accounts, books and other documents required to be maintained in an easily accessible place for the first two years.

[12] If a Partnership invests in a Rule 17d–1 Investment through an Aggregation Vehicle, the requirements of clauses (i) and (ii) of this sentence shall apply to both the Affiliated Co-Investor's disposition of such Rule 17d–1 Investment and, if the Affiliated Co-Investor also holds a Rule 17d–1 Investment through such Aggregation Vehicle, its disposition of all or part of its investment in the Aggregation Vehicle.

Party Fund); (ii) the Advisers; (iii) an officer or director of the Advisers; (iv) an Eligible Employee; or (v) an entity (other than a Third Party Fund) in which an Adviser entity acts as a general partner or has a similar capacity to control the sale or other disposition of the entity's securities. The restrictions contained in this condition, however, shall not be deemed to limit or prevent the disposition of an investment by an Affiliated Co-Investor (i) to its direct or indirect wholly-owned subsidiary, to any company (a ''Parent'') of which the Affiliated Co-Investor is a direct or indirect wholly-owned subsidiary or to a direct or indirect wholly-owned subsidiary of its Parent, (ii) to immediate family members of the Affiliated Co-Investor or a trust or other investment vehicle established for any Affiliated Co-Investor or any such immediate family member, or (iii) when the investment is comprised of securities that are (a) listed on a national securities exchange registered under section 6 of the Exchange Act, (b) NMS stocks pursuant to section 11A(a)(2) of the Exchange Act and rule 600(a) of Regulation NMS thereunder, (c) government securities as defined in section 2(a)(16) of the Act or other securities that meet the definition of ''Eligible Security'' in rule 2a–7 under the Act, or (d) listed or traded on any foreign securities exchange or board of trade that satisfies regulatory requirements under the law of the jurisdiction in which such foreign securities exchange or board of trade is organized similar to those that apply to a national securities exchange or a national market system for securities.

4. Each Partnership and its General Partner will maintain and preserve, for the life of each Series of the Partnership and at least six years thereafter, such accounts, books and other documents constituting the record forming the basis for the audited financial statements that are to be provided to the Limited Partners in the Partnership, and each annual report of the Partnership required to be sent to the Limited Partners, and agree that all such records will be subject to examination by the Commission and its staff.[13]

5. Within 120 days after the end of each fiscal year of each Partnership, or as soon as practicable thereafter, the General Partner of each Partnership will send to each Limited Partner having an Interest in the Partnership at any time during the fiscal year then ended, Partnership financial statements audited by the Partnership's independent accountants. At the end of each fiscal year, the General Partner will make or cause to be made a valuation of all of the assets of the Partnership as of such fiscal year end in a manner consistent with customary practice with respect to the valuation of assets of the kind held by the Partnership. In addition, within 120 days after the end of each fiscal year of each Partnership (or as soon as practicable thereafter), the General Partner will send a report to each person who was a Limited Partner at any time during the fiscal year then ended, setting forth such tax information as shall be necessary for the preparation by the Limited Partner of that partner's federal and state income tax returns and a report of the investment activities of the Partnership during that fiscal year.

6. If a Partnership makes purchases or sales from or to an entity affiliated with the Partnership by reason of an officer, director or employee of an Adviser entity (i) serving as an officer, director, general partner, manager or investment adviser of the entity (other than an entity that is an Aggregation Vehicle), or (ii) having a 5% or more investment in the entity, such individual will not participate in the Partnership's determination of whether or not to effect the purchase or sale.

For the Commission, by the Division of Investment Management, under delegated authority.

Eduardo A. Aleman,

Assistant Secretary.

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[13] Each Partnership will preserve the accounts, books and other documents required to be maintained in an easily accessible place for the first two years.

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–81511; File No. SR–FICC–2017–019]

Self-Regulatory Organizations; Fixed Income Clearing Corporation; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Adopt the Interpretive Guidance With Respect to Watch List Consequences

August 31, 2017.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on August 23, 2017, Fixed Income Clearing Corporation (''FICC'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II and III below, which Items have been primarily prepared by the clearing agency. FICC filed the proposed rule change pursuant to Section 19(b)(3)(A) of the Act[3] and Rule 19b–4(f)(1) thereunder.[4] The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

I. Clearing Agency's Statement of the Terms of Substance of the Proposed Rule Change

The proposed rule change would amend FICC's Government Securities Division (''GSD'') Rulebook (''GSD Rules'') and Mortgage-Backed Securities Division (''MBSD'') Clearing Rules (''MBSD Rules,'' and collectively with the GSD Rules, the ''Rules'')[5] in order to adopt the Interpretive Guidance with Respect to Watch List Consequences (''Interpretive Guidance''), which would provide guidance to members of GSD and MBSD regarding placement on the Watch List and its impact on their respective Clearing Fund deposits as well as other consequences.

II. Clearing Agency's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the clearing agency included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The clearing agency has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

(A) Clearing Agency's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The proposed rule change would add the Interpretive Guidance into the Rules, which will provide guidance to members of GSD and MBSD regarding the Watch List and its impact on their respective Clearing Fund deposits as well as other possible consequences.

(i) Background

FICC occupies an important role in the securities settlement system by interposing itself through each of GSD and MBSD as a central counterparty

[3] 15 U.S.C. 78s(b)(3)(A).

[4] 17 CFR 240.19b–4(f)(1).

[5] Capitalized terms not defined herein are defined in the GSD Rules, *available at www.dtcc.com/~/media/Files/Downloads/legal/rules/ficc_gov_rules.pdf,* and the MBSD Rules, *available at www.dtcc.com/~/media/Files/Downloads/legal/rules/ficc_mbsd_rules.pdf.*

between members that are counterparties to transactions accepted for clearing by FICC, thereby reducing the risks faced by its members. FICC's ability to guarantee settlement of these transactions is dependent upon its risk management, which is the means by which it protects itself and its members from the risks inherent in the settlement process. The Watch List is one of the risk management tools that FICC uses to monitor default risks of its members on an ongoing basis.[6] A member could be placed on the Watch List if its credit rating derived from the Credit Risk Rating Matrix is 5, 6 or 7,[7] or if, based on FICC's consideration of relevant factors, it is deemed by FICC to pose a heightened risk to FICC and its members.[8] Being placed on the Watch List may result in Clearing Fund-related consequences as well as other consequences under the Rules.

(ii) Detailed Description of the Proposed Rule Change

In order to provide members of GSD and MBSD guidance regarding placement on the Watch List and its impact on their respective Clearing Fund deposits and other consequences, FICC is proposing to adopt the Interpretive Guidance, as described below.

FICC is also proposing to amend the ''Watch List'' definition in GSD Rule 1 (Definitions) and MBSD Rule 1 (Definitions), respectively, to add a footnote referring to the Interpretive Guidance for members' ease of reference when reviewing the Rules for Watch List implications. The proposed footnote would indicate to members that being placed on the Watch List may result in Clearing Fund-related consequences as well as other consequences under the Rules and would refer them to the Interpretive Guidance in the Rules.

A. Clearing Fund-Related Consequences for Members Placed on the Watch List

As proposed, the Interpretive Guidance would provide details on Clearing Fund-related consequences for members of GSD and MBSD placed on the Watch List, including additional Clearing Fund deposits, restriction on withdrawal of Excess Clearing Fund Deposits, and non-waiver of minimal Clearing Fund payment.

1. Additional Clearing Fund Deposits

Pursuant to Section 12(e) of GSD Rule 3[9] and Section 11(e) of MBSD Rule 3,[10] FICC may require a GSD Netting Member or an MBSD Clearing Member, as applicable, that has been placed on the Watch List to make and maintain a deposit to the GSD Clearing Fund or MBSD Clearing Fund, as applicable, over and above the amount determined in accordance with Section 2 of GSD Rule 4 and Section 2 of MBSD Rule 4, as applicable, or such higher amount as the FICC Board may deem necessary for the protection of FICC or other members.

The determination of whether a member that is on the Watch List should be subject to an additional Clearing Fund deposit is based on factors determined to be relevant by FICC from time to time, including:

a. The overall financial condition and financial stability or volatility of the GSD Netting Member or the MBSD Clearing Member, as applicable, which may include a review of the member's credit rating/enhanced surveillance[11] history and outlook. For example, FICC may require an additional Clearing Fund deposit from a member that is both rated a 7 on the Credit Risk Rating Matrix as well as under enhanced surveillance, or if the member's credit rating has deteriorated rapidly month over month.

b. The liquidity arrangement, if any, of the GSD Netting Member or the MBSD Clearing Member, as applicable. For example, FICC may require an additional Clearing Fund deposit from a member if FICC has concerns about the member's liquidity arrangement or if FICC determines that the member has insufficient liquidity resources when compared to the volume of the member's clearing activities at FICC.

c. The Clearing Fund requirement history, transaction volume trends, simulated closeout results, stress test results, backtest results and outstanding positions of the GSD Netting Member or the MBSD Clearing Member, as applicable. For example, FICC may require an additional Clearing Fund deposit from a member that is on the Watch List if a review of the member's activity level indicates that FICC or its members could be exposed to losses from the member's activities.

d. Adverse news reports and/or regulatory concerns relating to the GSD Netting Member or the MBSD Clearing Member, as applicable.

e. Any additional concerns relating to the financial or operational condition of the GSD Netting Member or the MBSD Clearing Member, as applicable.

Additionally, pursuant to Section 2(a) of MBSD Rule 4,[12] FICC may impose an Intraday Mark-to-Market Charge on a MBSD Clearing Member that

[6] *See* Exchange Act Release Nos. 80734 (May 19, 2017), 82 FR 24177 (May 25, 2017) (SR–FICC–2017–006), 80731 (May 19, 2017), 82 FR 24174 (May 25, 2017) (SR–FICC–2017–804).

[7] The Credit Risk Rating Matrix generates credit ratings for relevant members based on a 7-point rating system, with ''1'' being the strongest credit rating and ''7'' being the weakest credit rating.

[8] Pursuant to GSD Rule 1, the term ''Watch List'' means ''at any time and from time to time, the list of Members whose credit ratings derived from the Credit Risk Rating Matrix are 5, 6 or 7, as well as members that, based on the Corporation's consideration of relevant factors, including those set forth in Section 12(d) of Rule 3, are deemed by the Corporation to pose heightened risk to the Corporation and its Members.'' GSD Rule 1, Definitions.

Pursuant to MBSD Rule 1, the term ''Watch List'' means ''at any time and from time to time, the list of Members whose credit ratings derived from the Credit Risk Rating Matrix are 5, 6 or 7, as well as Members that, based on the Corporation's consideration of relevant factors, including those set forth in Section 11(d) of Rule 3, are deemed by the Corporation to pose heightened risk to the Corporation and its Members.'' MBSD Rule 1, Definitions.

[9] Section 12(e) of GSD Rule 3, in relevant parts, states that ''The Corporation may require a Netting Member that has been placed on the Watch List to make and maintain a deposit to the Clearing Fund over and above the amount determined in accordance with Section 2 of Rule 4 (which additional deposit shall constitute a portion of the Netting Member's Required Fund Deposit), or such higher amount as the Board may deem necessary for the protection of the Corporation or other Members, which higher amount may include, but is not limited to, additional payments or deposits in any form to offset potential risk to the Corporation and its Members arising from activity submitted by such Member.'' GSD Rule 3, Ongoing Membership Requirements.

[10] Section 11(e) of MBSD Rule 3, in relevant parts, states that ''The Corporation may require a Clearing Member that has been placed on the Watch List to make and maintain a deposit to the Clearing Fund over and above the amount determined in accordance with Section 2 of Rule 4 (which additional deposit shall constitute a portion of the Clearing Member's Required Fund Deposit), or such higher amount as the Board may deem necessary for the protection of the Corporation or other Members, which higher amount may include, but is not limited to, additional payments or deposits in any form to offset potential risk to the Corporation and its Members arising from activity submitted by such Member.'' MBSD Rule 3, Ongoing Membership Requirements.

[11] FICC maintains an enhanced surveillance list for membership monitoring. The enhanced surveillance list is generally used when members are undergoing drastic and unexpected changes in their financial conditions or operational capabilities and thus are deemed by FICC to be of the highest risk level and/or warrant additional scrutiny due to FICC's ongoing concerns about these members.

[12] Section 2(a) of MBSD Rule 4, in relevant parts, states ''on any Business Day, a Clearing Member may become subject to an Intraday Mark-to-Market Charge,'' and the term ''Intraday Mark-to-Market Charge'' as defined in MBSD Rule 1, in relevant parts, provides that ''the Corporation may, in its discretion, collect the Intraday Mark-to-Market Charge from a Clearing Member that experiences an adverse Intraday Mark-to-Market change that . . . exceeds a certain dollar threshold (''Surveillance Threshold'')'' and that ''the Surveillance Threshold is an amount between $1,000,000 and $50,000,000 that is set by the Corporation per Clearing Member based on a Clearing Member's rating as determined by the Credit Risk Rating Matrix and/or a Clearing Member's Watch List status.'' MBSD Rule 4, Clearing Fund and Loss Allocation.

experiences an adverse Intraday Mark-to-Market change that, among other things, exceeds certain Surveillance Thresholds. The Surveillance Thresholds are set by FICC based on an MBSD Clearing Member's rating as determined by the Credit Risk Rating Matrix and/or its Watch List status.

Furthermore, pursuant to Section 2(g) of MBSD Rule 4,[13] FICC may subject a MBSD Clearing Member to an intraday VaR Charge if the MBSD Clearing Member is on the Watch List; however, FICC does not currently collect a VaR Charge on an intraday basis from any MBSD Clearing Members.

2. Restriction on Withdrawal of Excess Clearing Fund Deposits

Pursuant to Section 9 of GSD Rule 4 [14] and Section 9 of MBSD Rule 4,[15] FICC may retain some or all of the Excess Clearing Fund Deposit of a GSD Member or an MBSD Member, as applicable, who is on the Watch List.[16] Nonetheless, FICC generally does not retain the Excess Clearing Fund Deposit of a Watch List member unless the member fails to pay the Required Fund Deposit within the required timeframes established by FICC, or if FICC has a concern that the member will not be able to satisfy its obligation to FICC.

3. Non-Waiver of Minimal Clearing Fund Payment

Pursuant to Section 2(a) of GSD Rule 4 [17] and Section 2(c) of MBSD Rule 4,[18] a GSD Member or an MBSD Member, as applicable, is not required to make any payment to its Clearing Fund on a given day if the difference between the amount of the GSD Member's or the MBSD Member's, as applicable, Required Fund Deposit as reported on that day and the amount then on deposit towards satisfaction thereof is less than both (i) $250,000 and (ii) 25 percent of the amount then on deposit, provided that the GSD Member or the MBSD Member, as applicable, is not on the Watch List. As such, GSD Members and MBSD Members that are on the Watch List must satisfy all margin calls for their respective Clearing Funds regardless of the amount.

B. Other Consequences for GSD Netting Members Placed on the Watch List

As proposed, the Interpretive Guidance would also describe other consequences that may affect GSD Netting Members placed on the Watch List.

Pursuant to Section 12(e) of GSD Rule 3,[19] if a GSD Netting Member is on the Watch List, FICC may (1) suspend the GSD Netting Member's right under the GSD Rules to collect a Credit Forward Mark Adjustment Payment during all or a portion of the time period that the GSD Netting Member is on the Watch List and/or (2) maintain possession of the securities and/or cash that comprise the GSD Netting Member's Collateral Allocation Entitlement as the result of its GCF Repo Transaction activity. Nonetheless, FICC generally does not retain these credits and/or entitlements unless the GSD Netting Member fails to pay the Required Fund Deposit within the required timeframes established by FICC, or if FICC has a concern that the GSD Netting Member will not be able to satisfy its obligation to FICC.

2. Statutory Basis

Section 17A(b)(3)(F) of the Act requires, in part, that the Rules promote the prompt and accurate clearance and settlement of securities transactions.[20] The proposed rule change would provide additional transparency to FICC members regarding placement on the Watch List and its impact on their respective Clearing Fund deposits as well as other consequences. The proposed rule change would also clarify FICC's current practices regarding the assessment, collection and withholding of related margin charges, credits and/or entitlements. Accordingly, the proposed rule change would ensure that the Rules are transparent and clear, which would enable all stakeholders to readily understand their respective rights and obligations in connection with FICC's clearance and settlement of securities transactions. Therefore, FICC believes that the proposed rule change would promote the prompt and accurate clearance and settlement of securities transactions, consistent with Section 17A(b)(3)(F) of the Act.

Rule 17Ad–22(e)(23)(i) under the Act requires, in part, that FICC establish, implement, maintain and enforce written policies and procedures reasonably designed to provide for publicly disclosing all relevant rules and material procedures.[21] Rule 17Ad–22(e)(23)(ii) under the Act requires that FICC establish, implement, maintain and enforce written policies and procedures reasonably designed to provide sufficient information to enable participants to identify and evaluate the risks, fees, and other material costs they incur by participating in FICC.[22] The proposed rule change enhances the transparency in the Rules by describing the impact that placement on the Watch List could have on members' respective Clearing Fund deposits and other

[13] Section 2(g) of MBSD Rule 4, in relevant parts, states ''any VaR Charge may be collected on an intra-day basis,'' that ''such intra-day VaR Charge amount shall be based upon certain parameter breaks defined by the Corporation from time to time'' and ''qualitative factors including, but not limited to, Watch List status and internal rating will also be considered in the application of intraday VaR Charge.'' MBSD Rule 4, Clearing Fund and Loss Allocation.

[14] Section 9 of GSD Rule 4, in relevant parts, states ''at the discretion of the Corporation, some or all of the Excess Clearing Fund Deposit may not be returned . . . if the Member is on the Watch List.'' GSD Rule 4, Clearing Fund and Loss Allocation.

[15] Section 9 of MBSD Rule 4, in relevant parts, states ''at the discretion of the Corporation, some or all of the Excess Clearing Fund Deposit may not be returned . . . if the Member is on the Watch List.'' MBSD Rule 4, Clearing Fund and Loss Allocation.

[16] Pursuant to Section 9 of GSD Rule 4, FICC may also retain some or all of the Excess Clearing Fund Deposits of a GSD Member if FICC determines that the GSD Member's anticipated Funds-Only Settlement Amounts or Net Settlement Positions in the near future may reasonably be expected to be materially different than those of the recent past. GSD Rules, *supra* note 5.

Pursuant to Section 9 of MBSD Rule 4, FICC may also retain some or all of the Excess Clearing Fund Deposits of a MBSD Member if the MBSD Member has an outstanding payment obligation to FICC, if FICC determines that the MBSD Member's anticipated Cash Settlement Obligations, Pool Net Obligations or Transactions over the next 90 calendar days may reasonably be expected to be materially different than during the prior 90 calendar days. MBSD Rules, *supra* note 5.

[17] Section 2(a) of GSD Rule 4, in relevant parts, states that ''A Netting Member's Required Fund Deposit shall be reported daily, and payment shall be due by the time specified in the Corporation's procedures; however, such payment shall not be due on a given day if: (a) The difference between the amount of a Member's Required Fund Deposit as reported on that day, and the amount then on deposit towards satisfaction thereof is less than both (i) $250,000, and (ii) 25 percent of the amount then on deposit; and (b) the Member is not on the Watch List. GSD Rule 4, Clearing Fund and Loss Allocation.

[18] Section 2(c) of MBSD Rule 4, in relevant parts, states that ''A Clearing Member's Required Fund Deposit shall be reported daily, and payment shall be due by the time specified in the Corporation's procedures; however, such payment shall not be due on a given day if: (a) The difference between the amount of a Member's Required Fund Deposit as reported on that day and the amount then on deposit towards satisfaction thereof is less than both (i) $250,000, and (ii) 25 percent of the amount then on deposit from the Clearing Member; and (b) the Member is not on the Watch List.'' MBSD Rule 4, Clearing Fund and Loss Allocation.

[19] Section 12(e) of GSD Rule 3, in relevant parts, states that ''as regards a Netting Member that has been placed on the Watch List by the Corporation, the Corporation may suspend, during all or a portion of the time period that such Member is on the Watch List, its right under these Rules to collect a Credit Forward Mark Adjustment Payment. Moreover, if a Netting Member on the Watch List has a Collateral Allocation Entitlement as the result of its GCF Repo Transaction activity, the Corporation may, in its sole discretion, maintain possession of the securities and/or cash that comprise such Collateral Allocation Entitlement.'' GSD Rule 3, Ongoing Membership Requirements.

[20] 15 U.S.C. 78q–1(b)(3)(F).

[21] 17 CFR 240.17Ad–22(e)(23)(i).

[22] 17 CFR 240.17Ad–22(e)(23)(ii).

consequences. By doing so, the proposed rule change would provide for the public disclosure of the rules and procedures through which FICC assesses, collects and withholds certain margin charges, credits and/or entitlements from members on the Watch List. By providing information regarding the assessment, collection and withholding of certain margin charges and other consequences of the Watch List, the proposed rule change would also enable FICC's members to identify and evaluate the risks and material costs they incur by participating in FICC. As such, FICC believes the proposed rule change is consistent with Rule 17Ad–22(e)(23)(i) and (ii) under the Act.[23]

(B) Clearing Agency's Statement on Burden on Competition

FICC does not believe that the proposed rule change would impact competition.[24] The proposed rule change provides interpretive guidance with respect to existing Rules and would increase the transparency of the Rules regarding the Watch List and its impact on FICC members' respective Clearing Fund deposits and other consequences by clarifying FICC's current practices with respect to the assessment, collection and withholding of certain margin charges, credits and/or entitlements from members on the Watch List. The proposed rule change would not change such current practices. As such, FICC believes that the proposed rule change will not impact FICC members or have any impact on competition.

(C) Clearing Agency's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments relating to this proposed rule change have not been solicited or received. FICC will notify the Commission of any written comments received by FICC.

III. Date of Effectiveness of the Proposed Rule Change, and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A) of the Act [25] and paragraph (f) of Rule 19b–4 thereunder.[26] At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–FICC–2017–019 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549.

All submissions should refer to File Number SR–FICC–2017–019. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549 on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of FICC and on DTCC's Web site (*http://dtcc.com/legal/sec-rule-filings.aspx*). All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–FICC–2017–019 and should be submitted on or before September 28, 2017.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[27]

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2017–18936 Filed 9–6–17; 8:45 am]

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[23] 17 CFR 240.17Ad–22(e)(23)(i), (ii).

[24] 15 U.S.C. 78q–1(b)(3)(I).

[25] 15 U.S.C. 78s(b)(3)(A).

[26] 17 CFR 240.19b–4(f).

[27] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–81510; File No. SR–BatsBZX–2017–53]

Self-Regulatory Organizations; Bats BZX Exchange, Inc.; Notice of Filing of a Proposed Rule Change To List and Trade Shares of the WisdomTree CBOE Russell 2000 PutWrite Strategy Fund, a Series of the WisdomTree Trust, Under Rule 14.11(c)(3), Index Fund Shares

August 31, 2017.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on August 18, 2017, Bats BZX Exchange, Inc. (''Exchange'' or ''BZX'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange filed a proposal to list and trade shares of the WisdomTree CBOE Russell 2000 PutWrite Strategy Fund, a series of the WisdomTree Trust, under Rule 14.11(c)(3) (''Index Fund Shares''). The text of the proposed rule change is available at the Exchange's Web site at *www.bats.com,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

places specified in Item IV below. The Exchange has prepared summaries, set forth in Sections A, B, and C below, of the most significant parts of such statements.

(A) Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to list and trade shares (''Shares'') of the WisdomTree CBOE Russell 2000 PutWrite Strategy Fund (''Fund'') under Rule 14.11(c)(3), which governs the listing and trading of Index Fund Shares on the Exchange. The Fund will be an index-based exchange traded fund (''ETF'').

The Shares will be offered by the WisdomTree Trust (''Trust''), which was established as a Delaware statutory trust on December 15, 2005. The Trust is registered with the Commission as an investment company and has filed a registration statement on Form N–1A (''Registration Statement'') with the Commission on behalf of the Fund.[3]

The Fund's investment objective is to seek investment results that track the price and yield performance, before fees and expenses, of the CBOE Russell 2000 PutWrite Index (''Index''). The Index was developed and is maintained by the Chicago Board Options Exchange, Inc. (''CBOE'' or the ''Index Provider''), used under license from The Frank Russell Company. None of the Trust, WisdomTree Asset Management, Inc. (the ''Adviser''), Mellon Capital Management (the ''Sub-Adviser''), State Street Bank and Trust Company (the ''Administrator, ''Custodian,'' and ''Transfer Agent''), or Foreside Fund Services, LLC (the ''Distributor'') is affiliated with the Index Provider.

The Index tracks the value of a passive investment strategy, which consists of selling (or ''writing'') Russell 2000 Index put options (''RUT Puts'') and investing the sale proceeds in one-month Treasury bills (''RUT Strategy''). The RUT Puts are struck at-the-money and are sold on a monthly basis, usually the third Friday of the month (*i.e.,* the ''Roll Date''), which matches the expiration date of the RUT Puts. All RUT Puts are standardized options traded on the CBOE. The Index consists of only two components: RUT Puts and one-month Treasury bills.

The Exchange is submitting this proposed rule change because the Index for the Fund does not meet the listing requirements of Rule 14.11(c)(5) applicable to an Index that consists of both U.S. Component Stocks [4] and Fixed Income Securities,[5] which requires that the equity and fixed income component securities separately meet the criteria set forth in Rule 14.11(c)(3)(A)(i) and 14.11(c)(4), respectively. Specifically, the Fund does not meet all of the ''generic'' listing requirements of Rule 14.11(c)(3)(A)(i), applicable to the listing of Index Fund Shares based upon an index of U.S. Component Stocks. Rule 14.11(c)(3)(A)(i) sets forth the requirements to be met by components of an index or portfolio of U.S. Component Stocks. Because the Index consists primarily of RUT Puts, rather than ''U.S. Component Stocks'' as defined in Rule 14.11(c)(1)(D), the Index does not satisfy the requirements of Rule 14.11(c)(3)(A)(i).[6] The Fixed Income Security component of the Index, which consists of only one-month Treasury bills, meets the ''generic'' listing requirements of Rule 14.11(c)(4).

The Shares will conform to the initial and continued listing criteria under Rule 14.11(c), except that the Index will not meet the requirements of Rule 14.11(c)(3)(A)(i)(a)–(e) in that the Index will consist of one series of options based on U.S. Component Stocks (*i.e.,* RUT Puts), rather than U.S. Component Stocks. The Exchange notes that the Commission has previously approved a fund that employs a very similar strategy.[7]

WisdomTree CBOE Russell 2000 PutWrite Strategy Fund Index Methodology

The Fund seeks to track the performance of an underlying index, the CBOE Russell 2000 PutWrite Index (''Index''). The Index is based on a passive investment strategy which consists of overlapping hypothetical investments in a single series of exchange-listed Russell 2000 Index options (''RUT Puts'') over a money market account hypothetically invested in one-month Treasury bills. Specifically, the Index hypothetically writes at-the-money RUT Puts on a monthly basis, usually on the third Friday of the month (*i.e.,* the Roll Date), which matches the expiration date of the hypothetical RUT Puts. All RUT Puts hypothetically invested in by the Index are standardized options traded on the CBOE. At each Roll Date, any settlement loss in the Index based on the expiring RUT Puts is financed by the Treasury bill account and a new batch of hypothetical at-the-money RUT Puts is sold. Revenue from their sale is added to the Index's hypothetical Treasury bill account. On each Roll Date, the revenue from the hypothetical sale of RUT Puts is hypothetically invested separately at the one-month Treasury bill rate, and where applicable, any one-month Treasury bills purchased in the prior month are deemed to mature and hypothetically invested in new one-month Treasury bills at the one-month Treasury bill rate. As stated above, all investments used to determine Index value are hypothetical.

Fund's Investment Methodology

Under Normal Market Conditions,[8] the Fund will invest not less than 80%

[3] *See* Post-Effective Amendment No. 595 to Registration Statement on Form N–1A for the Trust, dated July 27, 2017 (File Nos. 333–132380 and 811–21864). The descriptions of the Fund and the Shares contained herein are based on information in the Registration Statement.

[4] As defined in Rule 14.11(c)(1)(D), the term ''U.S. Component Stock'' shall mean an equity security that is registered under Sections 12(b) or 12(g) of the Act, or an American Depositary receipt, the underlying equity security of which is registered under Sections 12(b) or 12(g) of the Act.

[5] As defined in Rule 14.11(c)(4), the term ''Fixed Income Security'' shall mean debt securities that are notes, bonds, debentures or evidence of indebtedness that include, but are not limited to, U.S. Department of Treasury securities (''Treasury Securities''), government-sponsored entity securities (''GSE Securities''), municipal securities, trust preferred securities supranational debt and debt of a foreign country or subdivision thereof.

[6] The Exchange notes that the Russell 2000 Index has been previously approved by the Commission under Section 19(b)(2) of the Act in connection with the listing and trading of FLEX Options and Quarterly Index Options, as well as other securities. *See, e.g.,* Securities Exchange Act Release Nos. 32694 (July 29, 1993), 58 FR 41814 (July 5, 1993) (approving the listing and trading of FLEX Options based on the Russell 2000 Index); 32693 (July 29, 1993), 58 FR 41817 (August 5, 1993) (approving the listing and trading of Quarterly Index Option based on the Russell 2000 Index). Rule 14.11(c)(3)(A)(i)(e) provides that all securities in the applicable index or portfolio shall be U.S. Component Stocks listed on a national securities exchange and shall be NMS Stocks as defined in Rule 600 under Regulation NMS of the Act. Each component stock of the Russell 2000 Index is a U.S. Component Stock that is listed on a national securities exchange and is an NMS Stock. Options are excluded from the definition of NMS Stock. The Fund and the Index meet all of the requirements of the listing standards for Index Fund Shares in Rule 14.11(c)(3), except the requirements in Rule 14.11(c)(3)(A)(i)(a)–(e), as the Index consists of options on U.S. Component Stocks. The Russell 2000 Index consists of U.S. Component Stocks and satisfies the requirements of Rule 14.11(c)(3)(A)(i)(a)–(e).

[7] *See* Securities Exchange Act Release Nos. 74675 (April 8, 2015), 80 FR 20038 (April 14, 2015) (order approving proposed rule change to list shares of the Wisdom Tree Put Write Strategy Fund) and 77045 (February 3, 2016), 81 FR 6916 (February 9, 2016) (order approving a proposed rule change relating to the index underlying the WisdomTree Put Write Strategy Fund).

[8] The term ''Normal Market Conditions'' includes, but is not limited to, the absence of trading halts in the applicable financial markets generally; operational issues causing dissemination of inaccurate market information or system failures; or force majeure type events such as natural or man-made disaster, act of God, armed conflict, act of terrorism, riot or labor disruption, or any similar

of its assets in RUT Puts and one month or three-month U.S. Treasury bills. The Fund may invest up to 20% of its net assets (in the aggregate) in other investments, that are not included in the Index, but which the Adviser or the Sub-Adviser believes will help the Fund to track the Index and that will be disclosed daily (''Other Assets''). The Fund's investment strategy will be designed to write a sequence of one-month, at-the-money, RUT Puts and invest cash and Other Assets targeted to achieve one-month Treasury bill rates. The number of RUT Puts written will vary from month to month, but will be limited to permit the amount held in the Fund's investment in Treasury bills to finance the maximum possible loss from final settlement of the RUT Puts. According to the Registration Statement, the Fund will generally use a sampling strategy in seeking to track the Index.

The new RUT Puts will be struck and sold on a monthly basis on the Roll Date, (*i.e.,* the same Roll Date at that used by the Index), which matches the expiration date of the current RUT Puts. The strike price of the new RUT Puts will be based on the strike price of Russell 2000 Index put options listed on the CBOE with the closest strike price below the last value of the Russell 2000 Index reported before 11:00 a.m. ET. For example, if the last Russell 2000 Index value reported before 11:00 a.m. ET is 1,137.02 and the closest listed Russell 2000 Index put option with a strike price below 1,137.02 is 1,130, then the 1,130 strike RUT put option will be sold by the Fund.

Russell 2000 Index options traded on CBOE are highly liquid, with average daily trading volume in 2016 of 71,365 contracts, with a notional size per contract of $117,169. The Exchange represents that the daily trading volume of at-the-money 30-day RUT Puts on each of the three recent Roll Dates was as follows: For Roll Date of April 21, 2017 (expiry May 19, 2017), strike price of 1375, 315 contracts on Roll Date, 209 average contracts per day through expiration; for Roll Date of May 19, 2017 (expiry June 16, 2017), strike price of 1370, 1,133 contracts on Roll Date, 701 average contracts per day through expiration; and for Roll Date of June 16, 2017 (expiry July 21, 2017), strike price of 1400, 545 contracts on Roll Date, 527 average contracts per day through expiration.[9] Moreover, the proceeds of the sales of the RUT Puts will be invested in U.S. Treasury bills, which are also highly liquid instruments.

The daily high, low and last reported sales prices on each of the Roll Dates for RUT Puts at-the-money are as follows: Roll Date of April 21, 2017 (expiry May 19, 2017, strike price of 1375, daily high: $23.54, low: $21.88, last: $22.40; Roll Date of May 19, 2017 (expiry June 16, 2017), strike price of 1370, daily high: $27.39, low: $20.15, last: $23.97; and Roll Date of June 16, 2017 (expiry July 21, 2017), strike price of 1400, daily high: $24.90, low: $18.46, last: $18.67.[10]

The Exchange estimates that on launch date, the Fund would hold approximately $2.5–$5.0 million in cash and cash equivalents (*e.g.,* one-month Treasury bills). This estimate is based on a minimum of 100,000–200,000 Shares being created at an estimated initial offering price of $25 per Share.

The Exchange believes that sufficient protections are in place to protect against market manipulation of the Fund's Shares and RUT Puts for several reasons: (i) Surveillance by the Exchange, CBOE[11] and the Financial Industry Regulatory Authority (''FINRA'') designed to detect violations of the federal securities laws and self-regulatory organization (''SRO'') rules; (ii) the large number of financial instruments tied to the specified securities; and (iii) the ETF creation/redemption arbitrage mechanism tied to the large pool of liquidity of the Fund's underlying investments, as more fully described below.

Trading in the Shares and the underlying Fund investments will be subject to the federal securities laws and Exchange, CBOE and FINRA rules and surveillance programs.[12] In this regard, the Exchange has in place a surveillance program for transactions in ETFs to ensure the availability of information necessary to detect and deter potential manipulations and other trading abuses, thereby making the Shares less readily susceptible to manipulation as assets in the portfolio—comprised primarily of RUT Puts and U.S. Treasury bills—will be acquired in extremely liquid and highly regulated markets.

Russell 2000 index options are among the most liquid options in the U.S. and derive their value from the actively traded Russell 2000 Index components. RUT Puts are cash-settled with no delivery of stocks or ETFs, and trade in competitive auction markets with price and quote transparency. The Exchange believes the highly regulated Russell 2000 Index options markets and the broad base and scope of the Russell 2000 Index make securities that derive their value from the index, including RUT Puts, less susceptible to market manipulation in view of market capitalization and liquidity of the Russell 2000 Index components, price and quote transparency, and arbitrage opportunities.

Because the pricing of the Shares is tied to the Fund's underlying assets (RUT Puts and U.S. Treasury bills), all of which are traded in efficient, diversified and liquid markets, the Exchange also expects the liquidity in the congruent creation/redemption arbitrage mechanism to keep the Shares' market pricing in line such that the Shares' pricing would not materially differ from their net asset value. The Exchange believes that the efficiency and liquidity of the markets for RUT Puts, related derivatives, and U.S. Treasury bills are sufficiently great to deter fraudulent or manipulative acts associated with the Fund's Shares price. Coupled with the extensive surveillance programs of the SROs described above, the Exchange does not believe that trading in the Fund's Shares would present manipulation concerns.

Other Assets

The Fund may invest up to 20% of its net assets (in the aggregate) in Other Assets. Other Assets includes only the following: Short-term, high quality securities issued or guaranteed by the U.S. government and non-U.S. governments,[13] and each of their agencies and instrumentalities; U.S. government sponsored enterprises; repurchase agreements backed by U.S. government and non-U.S. government securities; money market mutual funds; deposit and other obligations of U.S. and non-U.S. banks and financial institutions (''money market

intervening circumstance. In response to adverse market, economic, political, or other conditions, the Fund reserves the right to invest in U.S. government securities, other money market instruments (as defined below), and cash, without limitation, as determined by the Adviser or Sub-Adviser. In the event the Fund engages in these temporary defensive strategies that are inconsistent with its investment strategies, the Fund's ability to achieve its investment objectives may be limited.

[9] Source: CBOE.

[10] Source: CBOE.

[11] The Exchange notes that CBOE is a member of the Intermarket Surveillance Group (''ISG'').

[12] The Exchange notes that CBOE is a member of the Option Price Regulatory Surveillance Authority, which was established in 2006, to provide efficiencies in looking for insider trading and serves as a central organization to facilitate collaboration in insider trading and investigations for the U.S. options exchanges. For more information, *see http://www.cboe.com/aboutcboe/legal/departments/orsareg.aspx.*

[13] The Treasury securities in which the Fund may invest will include variable rate Treasury securities, whose rates are adjusted daily (or at such other increment as may later be determined by the Department of the Treasury) to generally correspond with the rate paid on one-month Treasury securities.

instruments'');[14] Russell 2000 ETF put options,[15] Russell 2000 Index futures and/or options on Russell 2000 Index futures;[16] total return swaps;[17] other exchange traded products (''ETPs'');[18] non-exchange-traded registered open-end investment companies (*i.e.,* mutual funds); and variable or floating interest rate securities.[19] The foregoing investments shall include buying the applicable derivative instrument or selling the applicable derivative instrument (*i.e.,* writing the applicable put option) and investing the proceeds.

Investment Restrictions

The Fund may hold up to an aggregate of 15% of its net assets in illiquid assets (calculated at the time of investment). The Fund will monitor its portfolio liquidity on an ongoing basis to determine whether, in light of current circumstances, an adequate level of liquidity is being maintained, and will consider taking appropriate steps in order to maintain adequate liquidity if through a change in values, net assets, or other circumstances, more than 15% of the Fund's net assets are held in illiquid assets. Illiquid assets include securities subject to contractual or other restrictions on resale and other instruments that lack readily available markets as determined in accordance with Commission staff guidance.[20]

The Fund will not invest in any non-U.S. equity securities. The Fund's investments will be consistent with the Fund's investment objective and will not be used to enhance leverage.[21]

In order to reduce interest rate risk, the Fund will generally maintain a weighted average portfolio maturity of 180 days or less on average (not to exceed 18 months) and will not purchase any money market instrument with a remaining maturity of more than 397 calendar days. The ''average portfolio maturity'' of a Fund is the average of all current maturities of the individual securities in the Fund's portfolio. The Fund's actual portfolio duration may be longer or shorter depending on market conditions.

The Fund intends to qualify each year as a regulated investment company (a ''RIC'') under Subchapter M of the Internal Revenue Code of 1986, as amended.[22] The Fund will invest its respective assets, and otherwise conduct its operations, in a manner that is intended to satisfy the qualifying income, diversification and distribution requirements necessary to establish and maintain RIC qualification under Subchapter M. The Fund is to be considered ''non-diversified.'' A non-diversified classification means that the Fund is not limited by the 1940 Act with regard to the percentage of total assets that be invested in the securities of a single issuer. As a result, the Fund may invest more of its total assets in the securities of a single issuer or a smaller number of issuers than if it were classified as a diversified fund.

Creation and Redemption of Shares

According to the Registration Statement, the Fund will issue and redeem Shares on a continuous basis at net asset value (''NAV''),[23] only in large blocks of shares (''Creation Units''), in transactions with Authorized Participants. Creation Units generally will consist of 50,000 Shares, though this may change from time to time. Creation Units are not expected to consist of less than 25,000 Shares.

The consideration for purchase of a Creation Unit of the Fund generally will consist of either (i) the in-kind deposit of a designated portfolio of securities (the ''Deposit Securities'') per Creation

[14] All money market instruments acquired by the Fund will be rated investment grade, except that a Fund may invest in unrated money market instruments that are deemed by the Adviser or Sub-Adviser to be of comparable quality to money market securities rated investment grade. The term ''investment grade,'' for purposes of money market instruments only, is intended to mean securities rated A1 or A2 by one or more nationally recognized statistical rating organizations.

[15] The Fund may invest up to 10% of its assets in over-the-counter Russell 2000 put options (''OTC Russell 2000 Index put options'').

[16] The Fund will limit its direct investments in futures and options on futures to the extent necessary for the Adviser to claim the exclusion from regulation as a ''commodity pool operator'' with respect to the Fund under Rule 4.5 promulgated by the Commodity Futures Trading Commission (''CFTC''), as such rule may be amended from time to time. Under Rule 4.5 as currently in effect, the Fund would limit its trading activity in futures and options on futures (excluding activity for ''bona fide hedging purposes,'' as defined by the CFTC) such that it will meet one of the following tests: (i) Aggregate initial margin and premiums required to establish its futures and options on futures positions will not exceed 5% of the liquidation value of the Fund's portfolio, after taking into account unrealized profits and losses on such positions; or (ii) aggregate net notional value of its futures and options on futures positions will not exceed 100% of the liquidation value of the Fund's portfolio, after taking into account unrealized profits and losses on such positions. The exchange-listed futures contracts in which the Fund may invest will be listed on exchanges in the U.S. Each of the exchange-listed futures contracts in which the Fund may invest will be listed on exchanges that are members of ISG.

[17] The Fund may use total return swaps to create positions equivalent to investments in RUT Puts and the component securities underlying the Russell 2000 Index. The Fund's investments in total return swap agreements will be backed by investments in U.S. government securities in an amount equal to the exposure of such contracts.

[18] The Fund may invest in shares of both taxable and tax-exempted money market funds. When used herein, ETPs may include, without limitation, Index Fund Shares (as described in Rule 14.11(c)); Linked Securities (as described in Rule 14.11(d)); Portfolio Depositary Receipts (as described in Rule 14.11(b)); Trust-Issued Receipts (as described in Rule 14.11(f)); Commodity-Based Trust Shares (as described in Rule 14.11(e)(4)); Currency Trust Shares (as described in Rule 14.11(e)(5)); Commodity Index Trust Shares (as described in Rule 14.11(e)(6)); Trust Units (as described in Rule 14.11(e)(9)); Managed Fund Shares (as described in Rule 14.11(i)), and closed-end funds. The ETPs in which the Fund may invest all will be listed and traded on U.S. exchanges. The Fund may invest in the securities of ETPs registered under the 1940 Act consistent with the requirements of Section 12(d)(1) of the 1940 Act or any rule, regulation or order of the Commission or interpretation thereof. The Fund will only make such investments in conformity with the requirements of Section 817 of the Internal Revenue Code of 1986. The ETPs in which the Fund may invest will primarily be index-based ETFs that hold substantially all of their assets in securities representing a specific index. The Fund will not invest in leveraged (*e.g.,* 2X, −2X, 3X, or −3X) ETPs.

[19] The Fund may invest in securities (in addition to U.S. Treasury securities, described above) that have variable or floating interest rates which are readjusted on set dates (such as the last day of the month) in the case of variable rates or whenever a specified interest rate change occurs in the case of a floating rate instrument. Variable or floating interest rates generally reduce changes in the market price of securities from their original purchase price because, upon readjustment, such rates approximate market rates. Accordingly, as interest rates decrease or increase, the potential for capital appreciation or depreciation is less for variable or floating rate securities than for fixed rate obligations.

[20] The Commission has stated that long-standing Commission guidelines have required open-end funds to hold no more than 15% of their net assets in illiquid securities and other illiquid assets. *See* Investment Company Act Release No. 28193 (March 11, 2008), 73 FR 14618 (March 18, 2008), footnote 34. *See also,* Investment Company Act Release No. 5847 (October 21, 1969), 35 FR 19989 (December 31, 1970) (Statement Regarding ''Restricted Securities''); Investment Company Act Release No. 18612 (March 12, 1992), 57 FR 9828 (March 20, 1992) (Revisions of Guidelines to Form N–1A). A fund's portfolio security is illiquid if it cannot be disposed of in the ordinary course of business within seven days at approximately the value ascribed to it by the fund. *See* Investment Company Act Release No. 14983 (March 12, 1986), 51 FR 9773 (March 21, 1986) (adopting amendments to Rule 2a–7 under the 1940 Act); Investment Company Act Release No. 17452 (April 23, 1990), 55 FR 17933 (April 30, 1990) (adopting Rule 144A under the Securities Act of 1933 (15 U.S.C. 77a).

[21] The Fund will include appropriate risk disclosure in its offering documents, including leveraging risk. Leveraging risk is the risk that certain transactions of a fund, including a fund's use of derivatives, may give rise to leverage, causing a fund to be more volatile than if it had not been leveraged. To mitigate leveraging risk, the Adviser will segregate or earmark liquid assets or otherwise cover the transactions that give rise to such risk. *See* 15 U.S.C. 80a–18; Investment Company Act Release No. 10666 (April 18, 1979), 44 FR 25128 (April 27, 1979); *Dreyfus Strategic Investing,* Commission No-Action Letter (June 22, 1987); *Merrill Lynch Asset Management, L.P.,* Commission No-Action Letter (July 2, 1996).

[22] 26 U.S.C. 851.

[23] The NAV of the Fund's Shares generally will be calculated once daily Monday through Friday as of the close of regular trading on the New York Stock Exchange (NYSE''), generally 4:00 p.m. ET (the ''NAV Calculation Time''). NAV per Share will be calculated by dividing the Fund's net assets by the number of Fund shares outstanding.

Unit and the ''Cash Component'' (defined below), computed as described below or (ii) the cash value of the Deposit Securities (''Deposit Cash'') and the ''Cash Component,'' computed as described below. Because non-exchange traded derivatives and certain listed derivatives are not currently eligible for in-kind transfer, they will be substituted with an amount of cash of equal value (*i.e.,* Deposit Cash) when the Fund processes purchases of Creation Units in-kind. Specifically, the Fund will not accept exchange-traded or over-the-counter options, exchange traded futures (or options on futures), and total return swaps as Deposit Securities.

When accepting purchases of Creation Units for cash, the Fund may incur additional costs associated with the acquisition of Deposit Securities that would otherwise be provided by an in-kind purchase. Together, the Deposit Securities or Deposit Cash, as applicable, and the Cash Component constitute the ''Fund Deposit,'' which represents the minimum initial and subsequent investment amount for a Creation Unit of the Fund. The Cash Component is an amount equal to the difference between the NAV of the Shares (per Creation Unit) and the market value of the Deposit Securities or Deposit Cash, as applicable. The Cash Component serves the function of compensating for any difference between the NAV per Creation Unit and the market value of the Deposit Securities or Deposit Cash, as applicable.

A portfolio composition file, to be sent via the National Securities Clearing Corporation (''NSCC''), will be made available on each business day, prior to the opening of business on the Exchange (currently 9:30 a.m. ET) containing a list of the names and the required amount of each security in the Deposit Securities to be included in the current Fund Deposit for the Fund (based on information about the Fund's portfolio at the end of the previous business day). In addition, on each business day, the estimated Cash Component, effective through and including the previous business day, will be made available through NSCC. The Fund Deposit is subject to any applicable adjustments as described in the Registration Statement.

All purchase orders must be placed by an ''Authorized Participant.'' An Authorized Participant must be either a broker-dealer or other participant in the Continuous Net Settlement System (''Clearing Process'') of the NSCC or a participant in The Depository Trust Company (''DTC'') with access to the DTC system, and must execute an agreement with the Distributor that governs transactions in the Fund's Creation Units. In-kind portions of purchase orders will be processed though the Clearing Process when it is available.

Shares of the Fund may be redeemed only in Creation Units at their NAV next determined after receipt of a redemption request in proper form by the Fund through the Distributor and only on a business day. The Fund, through the NSCC, will make available immediately prior to the opening of business on each business day, the list of the names and quantities of the Fund's portfolio securities that will be applicable (subject to possible amendment or correction) to redemption requests received in proper form on that day (''Fund Securities''). Redemption proceeds for a Creation Unit will be paid either in-kind or in cash or a combination thereof, and Fund Securities and Deposit Securities may differ. With respect to in-kind redemptions of the Fund, redemption proceeds for a Creation Unit will consist of Fund Securities plus cash in an amount equal to the difference between the NAV of the Shares being redeemed, as next determined after a receipt of a request in proper form, and the value of the Fund Securities (the ''Cash Redemption Amount''). In the event that the Fund Securities have a value greater than the NAV of the Shares, a compensating cash payment equal to the differential will be required to be made by or through an Authorized Participant by the redeeming shareholder. Notwithstanding the foregoing, at the Trust's discretion, an Authorized Participant may receive the corresponding cash value of the securities in lieu of the in-kind securities representing one or more Fund Securities.[24] Because non-exchange traded derivatives and certain listed derivatives are not eligible for in-kind transfer, they will be substituted with an amount of cash of equal value when the Fund processes redemptions of Creation Units in-kind. Specifically, the Fund will transfer the corresponding cash value of exchange-traded options, exchange-traded futures, exchange-traded options on futures contracts, and total return swap agreements in lieu of in-kind securities.

For an order involving a Creation Unit to be effectuated at the Fund's NAV on a particular day, it must be received by the Distributor by or before the deadline for such order (''Order Cut-Off Time''). The Order Cut-Off Time for creation and redemption orders for the Fund will be as described in the Registration Statement, but not later than 4:00 p.m. ET. A standard creation or redemption transaction fee (as applicable) will be imposed to offset transfer and other transaction costs that may be incurred by the Fund.

Availability of Information

The Trust's Web site (*www.wisdomtree.com*), which will be publicly available prior to the public offering of Shares, will include a form of the prospectus for the Fund that may be downloaded. The Web site will include additional quantitative information updated on a daily basis, including, for the Fund: (1) The most recently reported NAV, mid-point of the bid/ask spread at the time of calculation of such NAV (the ''Bid/Ask Price''),[25] and a calculation of the premium and discount of the Bid/Ask Price against the NAV; and (2) data in chart format displaying the frequency distribution of discounts and premiums of the daily Bid/Ask Price against the NAV, within appropriate ranges, for each of the four previous calendar quarters.

On each business day, before commencement of trading in Shares during Regular Trading Hours on the Exchange, the Trust will disclose on its Web site the following information regarding each portfolio holding, as applicable to the type of holding: Ticker symbol, CUSIP number or other identifier, if any; a description of the holding (including the type of holding, such as the type of swap); the identity of the security, index or other asset or instrument underlying the holding, if any; for options, the option strike price; quantity held (as measured by, for example, par value, notional value or number of shares, contracts or units); maturity date, if any; effective date, if any; coupon rate, if any; market value of the holding; and the percentage weighting of the holding in the Fund's portfolio. The Web site information will be publicly available at no charge.

In addition, a portfolio composition file, which will include the security names and quantities of securities and other assets required to be delivered in exchange for the Fund's Shares, together with estimates and actual cash components, will be publicly disseminated prior to the opening of the Exchange via the NSCC. The portfolio

[24] The Adviser represents that, to the extent the Trust effects the redemption of Shares in cash, the value of the redemption payment will equal the NAV per share.

[25] The Bid/Ask Price of the Fund will be determined using the midpoint of the highest bid and the lowest offer on the Exchange as of the time of calculation of the Fund's NAV. The records relating to Bid/Ask Prices will be retained by the Fund and its service providers.

will represent one Creation Unit of the Fund. Authorized Participants may refer to the portfolio composition file for information regarding RUT Puts, short-term U.S. Treasury Securities, money market instruments, and any other instrument that may comprise the Fund's portfolio on a given day.

Investors can also obtain the Trust's Statement of Additional Information (''SAI''), the Fund's Shareholder Reports, and its Form N–CSR and Form N–SAR, filed twice a year. The Trust's SAI and Shareholder Reports will be available free upon request from the Trust, and those documents and the Form N–CSR may be viewed on screen or downloaded from the Commission's Web site at *www.sec.gov.* Information regarding market price and trading volume for the Shares will be continually available on a real-time basis throughout the day on brokers' computer screens and other electronic services. Information regarding the previous day's closing price and trading volume information for the Shares will be published daily in the financial section of newspapers. Quotation and last sale information for the Shares and any ETPs it which it invests will be available via the Consolidated Tape Association (''CTA'') high-speed line. Quotation and last sale information for U.S. exchange-listed options contracts cleared by The Options Clearing Corporation will be available via the Options Price Reporting Authority. The intra-day, closing and settlement prices of exchange-traded portfolio assets, including ETPs, futures and options will be readily available from the securities exchanges and futures exchanges trading such securities and futures, as the case may be, automated quotation systems, published or other public sources, or online information services such as Bloomberg or Reuters. Price information on fixed income portfolio securities, including money market instruments, and other Fund assets traded in the over-the-counter markets, is available from major broker-dealer firms or market data vendors, as well as from automated quotation systems, published or other public sources, or online information services. In addition, the value of the Index will be published by one or more major market data vendors every 15 seconds during Regular Trading Hours [26] on the Exchange. Information about the Index constituents, the weighting of the constituents, the Index's methodology and the Index's rules will be available at no charge on the Index Provider's Web site at *www.CBOE.com.*

In addition, the Intraday Indicative Value (''IIV''), as defined in Rule 14.11(c)(3)(C), will be widely disseminated at least every 15 seconds during Regular Trading Hours by one or more major market vendors.[27] All Fund holdings will be included in calculating the IIV.

The dissemination of the IIV is intended to allow investors to determine the value of the underlying portfolio of the Fund on a daily basis and to approximate that value throughout the trading day. The intra-day, closing and settlement prices of debt securities and money market instruments will be readily available from published and other public sources or on-line information services. Price information regarding investment company securities, including ETFs, will be available from on-line information services and from the Web site for the applicable investment company security.

Additional information regarding the Trust and the Shares, including investment strategies, risks, creation and redemption procedures, fees, portfolio holdings disclosures policies, distributions and taxes is included in the Registration Statement. All terms relating to the Fund that are referred to, but not defined in, this proposed rule change are defined in the Registration Statement.

Initial and Continued Listing

The Shares will conform to the initial and continued listing criteria under Bats Rule 14.11(c)(3), except that the Index will not meet the requirements of Rule 14.11(c)(3)(A)(i)(a)–(e) in that the Index will consist of one series of options based on U.S. Component Stocks (*i.e.,* RUT Puts), rather than U.S. Component Stocks. The Exchange represents that, for initial and/or continued listing, the Fund will be in compliance with Rule 10A–3 [28] under the Act, as provided by Rule 14.10. A minimum of 100,000 Shares for the Fund will be outstanding at the commencement of trading on the Exchange. The Exchange will obtain a representation from the issuer of the Shares that the NAV per Share will be calculated daily and that the NAV and will be made available to all market participants at the same time.

Trading Halts

With respect to trading halts, the Exchange may consider all relevant factors in exercising its discretion to halt or suspend trading in the Shares of the Funds. The Exchange will halt trading in the Shares under the conditions specified in BZX Rule 11.18. Trading may be halted because of market conditions or for reasons that, in the view of the Exchange, make trading in the Shares inadvisable. These may include: (1) The extent to which trading is not occurring in the securities and/or the financial instruments composing the daily disclosed portfolio of the Funds; or (2) whether other unusual conditions or circumstances detrimental to the maintenance of a fair and orderly market are present. Trading in the Shares also will be subject to Rule 14.11(c)(1)(B)(iv), which sets forth circumstances under which Shares of a Fund may be halted.

Trading Rules

The Exchange deems the Shares to be equity securities, thus rendering trading in the Shares subject to the Exchange's existing rules governing the trading of equity securities. The Exchange will allow trading in the Shares from 8:00 a.m. until 5:00 p.m. Eastern Time and has the appropriate rules to facilitate transactions in the Shares during all trading sessions. As provided in BZX Rule 11.11(a), the minimum price variation for quoting and entry of orders in securities traded on the Exchange is $0.01, with the exception of securities that are priced less than $1.00, for which the minimum price variation for order entry is $0.0001.

Surveillance

The Exchange believes that its surveillance procedures are adequate to properly monitor the trading of the Shares on the Exchange during all trading sessions and to deter and detect violations of Exchange rules and the applicable federal securities laws. Trading of the Shares through the Exchange will be subject to the Exchange's surveillance procedures for derivative products, including Index Fund Shares. The issuer has represented to the Exchange that it will advise the Exchange of any failure by the Fund to comply with the continued listing requirements, and, pursuant to its obligations under Section 19(g)(1) of the Exchange Act, the Exchange will surveil for compliance with the continued listing requirements. FINRA conducts certain cross-market surveillances on behalf of the Exchange pursuant to a regulatory services agreement. The

[26] As defined in Rule 1.5(w), the term ''Regular Trading Hours'' means the time between 9:30 a.m. and 4:00 p.m. Eastern Time.

[27] Currently, it is the Exchange's understanding that several major market data vendors display and/or make widely available IIV's taken from the CTA or other data feeds.

[28] *See* 17 CFR 240.10A–3.

Exchange is responsible for FINRA's performance under this regulatory services agreement. If the Fund is not in compliance with the applicable listing requirements, the Exchange will commence delisting procedures under Exchange Rule 14.12.

The Exchange or FINRA, on behalf of the Exchange, will communicate as needed regarding trading in the Shares, futures contracts, ETPs, and exchange-traded options contracts with other markets and other entities that are members of the ISG and may obtain trading information regarding trading in the Shares, futures contracts, exchange-traded options contracts and ETPs from such markets and other entities. In addition, the Exchange may obtain information regarding trading in the Shares, futures contracts, exchange-traded options contracts, and ETPs from markets and other entities that are members of ISG or with which the Exchange has in place a comprehensive surveillance sharing agreement.[29] All futures contracts (and options on futures), listed options and ETPs held by the Fund will be traded on U.S. exchanges, all of which are members of ISG or are exchanges with which the Exchange has in place a comprehensive surveillance sharing agreement. In addition, the Exchange is able to access, as needed, trade information for certain fixed income securities held by the Fund reported to FINRA's Trade Reporting and Compliance Engine (''TRACE'').

In addition, the Exchange also has a general policy prohibiting the distribution of material, non-public information by its employees.

Information Circular

Prior to the commencement of trading, the Exchange will inform its members in an Information Circular of the special characteristics and risks associated with trading the Shares. Specifically, the Information Circular will discuss the following: (1) The procedures for purchases and redemptions of Shares in Creation Units (and that Shares are not individually redeemable); (2) BZX Rule 3.7, which imposes suitability obligations on Exchange members with respect to recommending transactions in the Shares to customers; (3) how information regarding the IIV and Index value is disseminated; (4) the risks involved in trading the Shares during the Pre-Opening [30] and After Hours Trading Sessions [31] when an updated Intraday Indicative Value will not be calculated or publicly disseminated; (5) the requirement that members deliver a prospectus to investors purchasing newly issued Shares prior to or concurrently with the confirmation of a transaction; and (6) trading information.

In addition, the Information Circular will advise members, prior to the commencement of trading, of the prospectus delivery requirements applicable to the Funds. Members purchasing Shares from the Funds for resale to investors will deliver a prospectus to such investors. The Information Circular will also discuss any exemptive, no-action, and interpretive relief granted by the Commission from any rules under the Act.

In addition, the Information Circular will reference that each Fund is subject to various fees and expenses described in the Registration Statement. The Information Circular will also disclose the trading hours of the Shares of the Funds and the applicable NAV calculation time for the Shares. The Information Circular will disclose that information about the Shares of the Funds will be publicly available on the Funds' Web site. In addition, the Information Circular will reference that the Trust is subject to various fees and expenses described in each Fund's Registration Statement.

2. Statutory Basis

The Exchange believes that the proposal is consistent with Section 6(b) of the Act [32] in general and Section 6(b)(5) of the Act [33] in particular in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system and, in general, to protect investors and the public interest.

The Exchange believes that the proposed rule change is designed to prevent fraudulent and manipulative acts and practices in that the Shares will be listed on the Exchange pursuant to the initial and continued listing criteria in Bats Rule 14.11(c)(3), except that the Index will consist solely of RUT Puts and Treasury bills, rather than U.S. Component Stocks. The Exchange believes that the proposed rule change is designed to prevent fraudulent and manipulative acts and practices in that the Shares will be listed and traded on the Exchange pursuant to the listing criteria in Bats Rule 14.11(c). The Exchange believes that its surveillances, which generally focus on detecting securities trading outside of their normal patterns which could be indicative of manipulative or other violative activity, and associated surveillance procedures are adequate to properly monitor the trading of the Shares on the Exchange during all trading sessions and to deter and detect violations of Exchange rules and the applicable federal securities laws. FINRA and the Exchange, as applicable, may each obtain information via ISG from other exchanges that are members of ISG, and in the case of the Exchange, from other market or entities with which the Exchange has entered into a comprehensive surveillance sharing agreement.

The Index Provider is not registered as an investment adviser or broker-dealer and is not affiliated with any broker-dealers. The Adviser is not registered as, or affiliated with, any broker-dealer. The Sub-Adviser is affiliated with multiple broker-dealers and has implemented a ''fire wall'' with respect to such broker-dealers and their personnel regarding access to information concerning the composition and/or changes to the Index. In addition, Sub-Adviser personnel who make decisions regarding the Fund's portfolio are subject to procedures designed to prevent the use and dissemination of material nonpublic information regarding the Fund's portfolio. The Adviser and the Index Provider have represented that a fire wall exists around the respective personnel who have access to information concerning changes and adjustments to the Index. All exchange-listed options, futures contracts and ETPs held by the Fund will be traded on U.S. exchanges, all of which are members of ISG or are exchanges with which the Exchange has in place a comprehensive surveillance sharing agreement.

Under Normal Market Conditions, not less than 80% of the Fund's total assets will be comprised of RUT Puts and U.S. Treasury bills, although the Fund may also invest up to 20% of its total assets in Other Assets. Other Assets includes only the following: short-term, high quality securities issued or guaranteed by the U.S. government and non-U.S. governments, and each of their agencies

[29] For a list of the current members of ISG, see *www.isgportal.org.* The Exchange notes that not all of the components of the portfolio for the Fund may trade on exchanges that are members of the ISG or with which the Exchange has in place a comprehensive surveillance sharing agreement.

[30] The Pre-Opening Session is from 8:00 a.m. to 9:30 a.m. Eastern Time.

[31] The After Hours Trading Session is from 4:00 p.m. to 5:00 p.m. Eastern Time.

[32] 15 U.S.C. 78f.

[33] 15 U.S.C. 78f(b)(5).

and instrumentalities; U.S. government sponsored enterprises; repurchase agreements backed by U.S. government and non-U.S. government securities; money market mutual funds; money market instruments; Russell 2000 ETF put options,[34] Russell 2000 Index futures and/or options on Russell 2000 Index futures; [35] total return swaps; [36] other ETPs; non-exchange-traded registered open-end investment companies (*i.e.,* mutual funds); and variable or floating interest rate securities.

The Fund may hold up to an aggregate amount of 15% of its net assets in illiquid assets (calculated at the time of investment), consistent with Commission guidance. The Fund therefore will not use derivative instruments to enhance leverage. The Fund will not invest in non-U.S. equity securities.

All statements and representations made in this filing regarding the index composition, the description of the portfolio or reference assets, limitations on portfolio holdings or reference assets, dissemination and availability of index, reference asset, and intraday indicative values, and the applicability of Exchange rules specified in this filing shall constitute continued listing requirements for the Fund. The issuer has represented to the Exchange that it will advise the Exchange of any failure by the Fund to comply with the continued listing requirements, and, pursuant to its obligations under Section 19(g)(1) of the Act, the Exchange will monitor for compliance with the continued listing requirements. FINRA conducts certain cross-market surveillances on behalf of the Exchange pursuant to a regulatory services agreement. The Exchange is responsible for FINRA's performance under this regulatory services agreement. If the Fund is not in compliance with the applicable listing requirements, the Exchange will commence delisting procedures under Bats Rule 14.12.

The proposed rule change is designed to promote just and equitable principles of trade and to protect investors and the public interest in that the Exchange will obtain a representation from the issuer of the Shares that the NAV per Share will be calculated daily every day the NYSE is open, and that the NAV will be made available to all market participants at the same time. In addition, a large amount of information will be publicly available regarding the Fund and the Shares, thereby promoting market transparency.

Moreover, the IIV will be widely disseminated by one or more major market data vendors at least every 15 seconds during Regular Trading Hours. On each business day, before commencement of trading in the Shares on the Exchange during Regular Trading Hours, the Fund will disclose on its Web site the portfolio that will form the basis for the Fund's calculation of NAV at the end of the business day. Information regarding market price and trading volume of the Shares will be continually available on a real-time basis throughout the day on brokers' computer screens and other electronic services, and quotations and last sale information will be available via the CTA high-speed line. Information relating to U.S. exchange-listed options is available via the Options Price Reporting Authority. Quotation and last sale information for the Shares and any ETPs it which it invests will be available via the CTA high-speed line. Quotation and last sale information for U.S. exchange-listed options contracts cleared by The Options Clearing Corporation will be available via the Options Price Reporting Authority. The intra-day, closing and settlement prices of exchange-traded portfolio assets, including ETPs, futures and exchange-traded options contracts will be readily available from the securities exchanges and futures exchange trading such securities and futures, as the case may be, automated quotation systems, published or other public sources, or online information services such as Bloomberg or Reuters. Such price information on fixed income portfolio securities, including money market instruments, and other Fund assets traded in the over-the-counter markets, including bonds and money market instruments is available from major broker-dealer firms or market data vendors, as well as from automated quotation systems, published or other public sources, or online information services. The Web site for the Fund will include the prospectus for the Fund and additional data relating to NAV and other applicable quantitative information. Moreover, prior to commencement of trading, the Exchange will inform its Members in an Information Circular of the special characteristics and risks associated with trading the Shares. If the Exchange becomes aware that the NAV is not being disseminated to all market participants at the same time, it will halt trading in the Shares until such time as the NAV is available to all market participants. With respect to trading halts, the Exchange may consider all relevant factors in exercising its discretion to halt or suspend trading in the Shares of the Funds. Trading also may be halted because of market conditions or for reasons that, in the view of the Exchange, make trading in the Shares inadvisable. These may include: (1) The extent to which trading is not occurring in the securities and/or the financial instruments composing the daily disclosed portfolio of each Fund; or (2) whether other unusual conditions or circumstances detrimental to the maintenance of a fair and orderly market are present. Trading in the Shares also will be subject to Rule 14.11(c)(1)(B)(iv), which sets forth circumstances under which Shares of a Fund may be halted. If the IIV of any of [sic] the Fund or value of the Index are [sic] not being disseminated as required, the Exchange may halt trading during the day in which the interruption to the dissemination of the IIV or index value occurs. In addition, as noted above, investors will have ready access to information regarding the Fund's holdings, the IIV, the Fund's portfolio, and quotation and last sale information for the Shares.

The proposed rule change is designed to perfect the mechanism of a free and open market and, in general, to protect investors and the public interest in that it will facilitate the listing and trading of an additional type of exchange-traded product that will enhance competition among market participants, to the benefit of investors and the marketplace. As noted above, the Shares will be subject to the existing trading surveillances, which are designed to detect violations of Exchange rules and federal securities laws applicable to trading on the Exchange. The Exchange or FINRA, on behalf of the Exchange, will communicate as needed regarding trading in the Shares, ETPs, futures contracts, and exchange-traded options contracts with other market and other entities that are members of ISG and may obtain trading information in the Shares, futures contracts, exchange-traded options contracts, and ETPs from such markets and other entities. In addition, the Exchange may obtain information regarding trading in the Shares, futures contracts, exchange-traded options contracts, and ETPs from markets and other entities that are members of ISG or with which the

[34] The Fund may invest up to 10% of its net assets in OTC Russell 2000 Index put options.

[35] The Fund's investments in listed futures contracts will be backed by investments in U.S. government securities in an amount equal to the exposure of such contracts.

[36] The Fund's investments in total return swap agreements will be backed by investments in U.S. government securities in an amount equal to the exposure of such contracts.

Exchange has in place a comprehensive surveillance sharing agreement. In addition, as noted above, investors will have ready access to information regarding the Fund's holdings, the IIV, and quotation and last sale information for the Shares.

For the above reasons, the Exchange believes that the proposed rule change is consistent with the requirements of Section 6(b)(5) of the Act.

(B) Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purpose of the Act. The Exchange notes that the proposed rule change will facilitate the listing and trading of an additional type of Index Fund Shares that will enhance competition among market participants, to the benefit of investors and the marketplace.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

The Exchange has neither solicited nor received written comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 45 days of the date of publication of this notice in the **Federal Register** or within such longer period up to 90 days (i) as the Commission may designate if it finds such longer period to be appropriate and publishes its reasons for so finding, or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve or disapprove the proposed rule change; or

(B) institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposal is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File No. SR–BatsBZX–2017–53 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File No. SR-BatsBZX–2017–53. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of such filing will also be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File No. SR–BatsBZX–2017–53 and should be submitted on or before September 28, 2017.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[37]

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2017–18935 Filed 9–6–17; 8:45 am]

BILLING CODE 8011–01–P

[37] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–81512; File No. SR–BX–2017–039]

Self-Regulatory Organizations; NASDAQ BX, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Address the Application of Exchange Rule 11140 (Transactions in Securities ''Ex-Dividend,'' ''Ex-Rights'' or ''Ex-Warrants'') as it Relates to Establishing Ex-Dividend Dates in connection With the Implementation of the T+2 Settlement Cycle on September 5, 2017

August 31, 2017.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on August 29, 2017, NASDAQ BX, Inc. (''BX'' or ''Exchange'') filed with the Securities and Exchange Commission (''SEC'' or ''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to address the application of Exchange Rule 11140 (Transactions in Securities ''Ex-Dividend,'' ''Ex-Rights'' or ''Ex-Warrants'') as it relates to establishing ex-dividend dates in connection with the implementation of the T+2 settlement cycle on September 5, 2017. No change to the text of Rule 11140(b)(1) is required by this proposal.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b-4.

A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

1. Purpose

Background

On March 22, 2017, the SEC adopted amendments to SEA Rule 15c6–1(a) to shorten the standard settlement cycle for U.S. secondary market transactions in equities, corporate and municipal bonds, unit investment trusts and financial instruments composed of these products, from three business days after the trade date (''T+3'') to two business days after the trade date (''T+2'').[3] The industry-wide initiative is designed to reduce a number of risks, including credit risk, market risk, and liquidity risk and, as a result, reduce systemic risk for U.S. market participants.[4] The compliance date for the rule amendments is September 5, 2017.

In support of this initiative, the Exchange proposed changes to its rules pertaining to securities settlement by, among other things, amending the definition of ''regular way'' settlement as occurring on T+2.[5] On May 10, 2017, the SEC approved the Exchange's amendments to the applicable rules, including Rule 11140(b), that establish or reference T+3 to conform to T+2, and these amendments will become effective on September 5, 2017.[6]

During the transition period the industry and self-regulatory organizations (''SROs''), including The Depository Trust Company (''DTC'') which processes corporate action events, have raised concern that the September 5, 2017 industry-wide transition date from T+3 to T+2 will result in September 7, 2017 being a ''double'' settlement date for trades that occur on September 1, 2017 (under T+3 and reflecting the Labor Day holiday on September 4, 2017) and trades that occur on September 5, 2017 (under T+2), which generally will result in investors who trade on either date being deemed a record holder of September 7, 2017.[7] In order to avoid confusion about the proper settlement date and to coordinate with other SROs, the Exchange is proposing not to establish September 5, 2017 as an ex-dividend date for applicable securities.

Proposal

The Exchange is proposing to address the application of Rule 11140(b) as it relates to the ex-dividend date in connection with the implementation of the T+2 settlement cycle on September 5, 2017. As amended to address T+2, the timeframes in Rule 11140 to establish an ex-dividend date were generally reduced by one business day.

The ex-dividend date (or ex-date) is the date on or after which a security is traded without a specific dividend or distribution. Rule 11140(b) provides for the determination of normal ex-dividend and ex-warrant dates for certain types of dividends and distributions. As amended to address T+2, Rule 11140(b)(1) provides that with respect to cash dividends or distributions, or stock dividends, and the issuance or distribution of warrants, which are less than 25% of the value of the subject security (*i.e.,* ''regular'' distributions), if the definitive information is received sufficiently in advance of the record date, the date designated as the ''ex-dividend date'' is the first business day preceding the record date if the record date falls on a business day, or the second business day preceding the record date if the record date falls on a day designated by the Exchange's Uniform Practice Code (''UPC'') Committee as a non-delivery date.[8] Rule 11140(b)(2), which did not require amendment in connection with T+2, establishes the ex-dividend date as the first business day following the payable date with respect to cash dividends or distributions, stock dividends and/or splits, and the distribution of warrants, which are 25% or greater of the value of the subject security (*i.e.,* ''large'' distributions).[9]

Consistent with the compliance date of the amendments to SEA Rule 15c6–1(a), the industry and the Exchange have adopted Tuesday, September 5, 2017 as the transition date to the T+2 settlement cycle.[10] To mitigate the potential confusion that may result concerning proper settlement during the transition period, the Exchange, in coordination with other SROs, supports the proposal that Tuesday, September 5, 2017 should not be designated as an ex-dividend date.[11]

Accordingly, the Exchange proposes to interpret Rule 11140(b)(1) so that the first record date to which the new ex-dividend date determination will be applied will be Thursday, September 7, 2017. The ex-dividend dates for ''regular'' distributions during the transition to T+2 will be as follows:

Record date	Ex-date
Friday, September 1, 2017[12]	Wednesday, August 30, 2017.
Tuesday, September 5, 2017[13]	Thursday, August 31, 2017.[14]
Wednesday, September 6, 2017	Friday, September 1, 2017.[15]
Thursday, September 7, 2017[16]	Wednesday, September 6, 2017.

[3] *See* Securities Exchange Act Release No. 80295 (March 22, 2017), 82 FR 15564 (March 29, 2017) (Securities Transaction Settlement Cycle) (File No. S7–22–16) (stating that, as amended, SEA Rule 15c6–1(a) will prohibit broker-dealers from effecting or entering into a contract for the purchase or sale of a security (other than an exempted security, government security, municipal security, commercial paper, bankers' acceptances or commercial bills) that provides for payment of funds and delivery of securities later than the second business day after the date of the contract, unless otherwise expressly agreed to by the parties at the time of the transaction).

[4] *See id.*

[5] *See* Securities Exchange Act Release No. 34–80282 (March 21, 2017), 82 FR 15258 (March 27, 2017) (Notice of Filing of File No. SR–BX–2017–13).

[6] *See* Securities Exchange Act Release No. 34–80640 (May 10, 2017), 82 FR 22598 (May 16, 2017) (Order Approving File No. SR–BX–2017–13).

[7] *See, e.g.,* Nasdaq Issuer Alert 2017–001, Changes to Ex-dividend Procedures Effective September 5, 2017 to Accommodate T+2 Settlement, *http://nasdaq.cchwallstreet.com/nasdaq/pdf/nasdaq-issalerts/2017/2017-001.pdf;* NYSE, NYSE MKT, NYSE ARCA: Changes Related to the Shortened Settlement Cycle (T+2) (July 11, 2017), *https://www.nyse.com/trader-update/history#110000069618.*

[8] The record date is the date fixed by an issuer for the purpose of determining the holder of the security who is eligible to receive the dividend, interest or principal payment, or any other distribution relating to the security.

[9] The payable date is the date that the dividend is sent to the record owner of the security.

[10] *See* Nasdaq Equity Trader Alert 2017–174 (July 28, 2017).

[11] *See, e.g.,* Nasdaq Issuer Alert 2017–001, Changes to Ex-dividend Procedures Effective September 5, 2017 to Accommodate T+2 Settlement, *http://nasdaq.cchwallstreet.com/nasdaq/pdf/nasdaq-issalerts/2017/2017-001.pdf;* NYSE, NYSE MKT, NYSE ARCA: Changes Related to the Shortened Settlement Cycle (T+2) (July 11, 2017), *https://www.nyse.com/trader-update/history#110000069618.*

[12] The last day of the T+3 settlement cycle.

[13] The first day of the T+2 settlement cycle.

[14] Monday, September 4, 2017 is Labor Day, a Federal holiday.

[15] *See id.*

[16] The date on which previous trades settling on a T+3 settlement cycle and current trades on the T+2 settlement cycle will be processed.

As described above, the ex-date for ''large'' distributions under Rule 11140(b)(2) is the first business day following the payable date. This provision was not amended in connection with T+2. In order to ensure that September 5, 2017 will not be designated as an ex-dividend date for ''large'' distributions, the Exchange will advise issuers to not set September 1, 2017 as the payable date for any ''large'' distribution under Rule 11140(b)(2) and proposes to interpret Rule 11140(b)(2) so that, if an issuer sets September 1, 2017 as the payable date for a ''large'' distribution, the ex-dividend date will be September 6, 2017, not September 5, 2017.

2. *Statutory Basis*

The Exchange believes that its proposal is consistent with Section 6(b) of the Act,[17] in general, and furthers the objectives of Section 6(b)(5) of the Act,[18] in particular, in that it is designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general to protect investors and the public interest. Specifically, the Exchange believes that the proposal to address the application of Rule 11140(b) to exclude September 5, 2017 as an ex-dividend date for ''regular'' or ''large'' distributions supports the collective effort among the industry and SROs to mitigate the potential confusion concerning proper settlement during the transition from the T+3 settlement cycle to the T+2 settlement cycle.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act. As noted above, the SROs support that no securities will be subject to an ex-date ruling on September 5, 2017. The primary benefit of this proposal is to minimize potential confusion about proper settlement that may arise during the transition to the T+2 settlement cycle.[19] The Exchange believes that the proposal would not impose any additional costs on the industry. As noted above, the proposal does not change the text to Rule 11140(b). Instead, the proposal interprets the application of the rule solely to refrain from designating September 5, 2017 as an ex-dividend date for ''regular'' or ''large'' distributions.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were either solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the proposed rule change does not (i) significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act[20] and Rule 19b–4(f)(6) thereunder.[21]

A proposed rule change filed under Rule 19b–4(f)(6)[22] normally does not become operative for 30 days after the date of filing. However, pursuant to Rule 19b–4(f)(6)(iii),[23] the Commission may designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has asked the Commission to waive the 30-day operative delay so that the proposal may become operative upon filing. The Exchange has stated that the purpose of the proposed rule change is to minimize confusion about proper settlement that may arise during the transition to the T+2 settlement cycle on September 5, 2017. The Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest to avoid the confusion that could arise in connection with the transition to the T+2 settlement cycle on September 5, 2017, if normal or large distributions were to be ex-dividend on that date. Accordingly, the Commission hereby waives the 30-day operative delay requirement and designates the proposed rule change as operative upon filing.[24]

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–BX–2017–039 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–BX–2017–039. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml).* Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549, on official business days between the hours of

[17] 15 U.S.C. 78f(b).

[18] 15 U.S.C. 78f(b)(5).

[19] As a result of the September 5, 2017 transition date for regular-way settlement from T+3 to T+2, September 7, 2017 will be a ''double'' settlement date for trades that occur on September 1, 2017 (under T+3 and reflecting the Labor Day holiday on September 4, 2017) and trades that occur on September 5, 2017 (under T+2).

[20] 15 U.S.C. 78s(b)(3)(A).

[21] 17 CFR 240.19b–4(f)(6). In addition, Rule 19b–4(f)(6)(iii) requires the Exchange to give the Commission written notice of the Exchange's intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

[22] 17 CFR 240.19b–4(f)(6).

[23] 17 CFR 240.19b–4(f)(6)(iii).

[24] For purposes only of waiving the 30-day operative delay, the Commission has also considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–BX–2017–039, and should be submitted on or before September 28, 2017.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[25]

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2017–18937 Filed 9–6–17; 8:45 am]

BILLING CODE 8011–01–P

DEPARTMENT OF STATE

[Public Notice: 10114]

Notice of Determinations; Culturally Significant Object Imported for Exhibition Determinations: Exhibition of ''Inlaid Brass Candlestick From Iran'' Object

SUMMARY: Notice is hereby given of the following determinations: I hereby determine that a certain object entitled ''Inlaid Brass Candlestick from Iran,'' imported from abroad for temporary exhibition within the United States, is of cultural significance. The object is imported pursuant to a loan agreement with the foreign owner or custodian. I also determine that the exhibition or display of the exhibit object at The Metropolitan Museum of Art, New York, New York, from on or about October 1, 2017, until on or about September 30, 2022, and at possible additional exhibitions or venues yet to be determined, is in the national interest.

FOR FURTHER INFORMATION CONTACT: For further information, including information identifying the object, contact Elliot Chiu in the Office of the Legal Adviser, U.S. Department of State (telephone: 202–632–6471; email: *section2459@state.gov*). The mailing address is U.S. Department of State, L/PD, SA–5, Suite 5H03, Washington, DC 20522–0505.

SUPPLEMENTARY INFORMATION: The foregoing determinations were made pursuant to the authority vested in me by the Act of October 19, 1965 (79 Stat. 985; 22 U.S.C. 2459), E.O. 12047 of March 27, 1978, the Foreign Affairs Reform and Restructuring Act of 1998 (112 Stat. 2681, *et seq.;* 22 U.S.C. 6501 note, *et seq.*), Delegation of Authority No. 234 of October 1, 1999, Delegation of Authority No. 236–3 of August 28, 2000 (and, as appropriate, Delegation of Authority No. 257–1 of December 11, 2015). I have ordered that Public Notice of these determinations be published in the **Federal Register**.

Alyson Grunder,

Deputy Assistant Secretary for Policy, Bureau of Educational and Cultural Affairs, Department of State.

[FR Doc. 2017–18954 Filed 9–6–17; 8:45 am]

BILLING CODE 4710–05–P

DEPARTMENT OF STATE

[Public Notice: 10113]

Notice of Determinations; Culturally Significant Objects Imported for Exhibition Determinations: ''Vermeer and the Masters of Genre Painting: Inspiration and Rivalry'' Exhibition

SUMMARY: Notice is hereby given of the following determinations: I hereby determine that certain objects to be included in the exhibition ''Vermeer and the Masters of Genre Painting: Inspiration and Rivalry,'' imported from abroad for temporary exhibition within the United States, are of cultural significance. The objects are imported pursuant to loan agreements with the foreign owners or custodians. I also determine that the exhibition or display of the exhibit objects at the National Gallery of Art, Washington, District of Columbia, from on or about October 22, 2017, until on or about January 21, 2018, and at possible additional exhibitions or venues yet to be determined, is in the national interest.

FOR FURTHER INFORMATION CONTACT: For further information, including a list of the imported objects, contact Elliot Chiu in the Office of the Legal Adviser, U.S. Department of State (telephone: 202–632–6471; email: *section2459@state.gov*). The mailing address is U.S. Department of State, L/PD, SA–5, Suite 5H03, Washington, DC 20522–0505.

SUPPLEMENTARY INFORMATION: The foregoing determinations were made pursuant to the authority vested in me by the Act of October 19, 1965 (79 Stat. 985; 22 U.S.C. 2459), E.O. 12047 of March 27, 1978, the Foreign Affairs Reform and Restructuring Act of 1998 (112 Stat. 2681, *et seq.;* 22 U.S.C. 6501 note, *et seq.*), Delegation of Authority No. 234 of October 1, 1999, Delegation of Authority No. 236–3 of August 28, 2000 (and, as appropriate, Delegation of Authority No. 257–1 of December 11, 2015). I have ordered that Public Notice of these determinations be published in the **Federal Register**.

Alyson Grunder,

Deputy Assistant Secretary for Policy, Bureau of Educational and Cultural Affairs, Department of State.

[FR Doc. 2017–18953 Filed 9–6–17; 8:45 am]

BILLING CODE 4710–05–P

DEPARTMENT OF STATE

[Public Notice: 10111]

Procedures With Respect to Presidential Permits Where There Has Been a Transfer of Ownership or Control of a Cross-Border Facility, Bridge, or Border Crossing for Land Transportation, as Well as for Name Change of a Permit Holder

AGENCY: Department of State.

ACTION: Notice.

SUMMARY: The President of the United States has authority to require permits for transboundary infrastructure projects based on his Constitutional powers over foreign affairs and national security. The Department is issuing this notice to describe the procedures it intends to follow with respect to transfers of ownership or control over cross-border facilities subject to Executive Order 11423, as amended, and Executive Order 13337, as well as changes of name of an entity holding a Presidential permit. This notice supersedes a previous notice, Public Notice 5092 (Procedures for Issuance of a Presidential Permit Where There Has Been a Transfer of the Underlying Facility, Bridge or Border Crossing for Land Transportation, 70 FR 30990, May 31, 2005), in its entirety.

FOR FURTHER INFORMATION CONTACT: Marcus Lee, Bureau of Energy Resources, U.S. Department of State, 2201 C St. NW Suite 4422, Washington, DC 20520, (202) 485–1522 for issues related to Executive Order 13337; Litah Miller, Bureau of Western Hemisphere Affairs, U.S. Department of State, 2201 C St. NW Suite 6262, Washington, DC 20520 (202) 647–9894 for issues related to Executive Order 11423.

SUPPLEMENTARY INFORMATION: On January 24, 2017, the President issued Executive Order 13766 on Expediting Environmental Reviews and Approvals for High Priority Infrastructure Projects in which he set forth the general policy of the Executive Branch ''to streamline and expedite, in a manner consistent with law, . . . approvals for all infrastructure projects, especially projects that are a high priority for the Nation,'' and cited pipelines, bridges,

[25] 17 CFR 200.30–3(a)(12).

and highways as examples of such high priority projects. The Secretary shares the President's priorities regarding the expeditious review of infrastructure projects, including pipelines, bridges, and highways. In order to carry out this policy, the Department of State (Department) is undertaking a comprehensive assessment of its Presidential permit application review processes and is issuing this public notice as part of this effort.

The President of the United States requires permits for transboundary infrastructure projects based upon his inherent foreign affairs and national security authority vested in Article II of the Constitution. In Executive Orders 11423 and 13337, acting pursuant to the Constitution and laws of the United States, including Section 301 of Title 3 of the United States Code, the President delegated to the Secretary of State the authority to receive applications and make determinations regarding approval or denial of Presidential permits for certain types of border facilities upon a national interest determination. The functions assigned to the Secretary have been further delegated within the Department. Because the determination is Presidential action, made through the exercise of Presidentially delegated authorities, the requirements of the National Environmental Policy Act of 1969 (NEPA), the National Historic Preservation Act of 1966, the Endangered Species Act of 1973, the Administrative Procedure Act, and other similar laws and regulations that do not apply to Presidential actions are inapplicable. However, as a matter of policy, the Department conducts its review of Presidential permit applications in a manner consistent with NEPA.

The Department provides support to the relevant Department decision maker in exercising this delegated Presidential authority with respect to particular applications for new Presidential permits or to the modification, amendment, suspension, revocation, or transfer of existing Presidential permits. For applications made under Executive Order 13337, the Department's Bureau of Energy Resources (ENR) provides such support. For applications made under Executive Order 11423, the Department's Bureau of Western Hemisphere Affairs (WHA) provides such support.

In 2005, the Department issued Public Notice 5092 (Procedures for Issuance of a Presidential Permit Where There Has Been a Transfer of the Underlying Facility, Bridge or Border Crossing for Land Transportation, 70 FR 30990, May 31, 2005) to provide guidance regarding the procedures the Department intended to follow where there had been a transfer of an underlying facility, bridge, or border crossing for land transportation for which a Presidential permit had already been issued.

In order to expedite the processing of transfers of infrastructure projects authorized under existing Presidential permits, including those that are a high priority for the Nation, as well as to provide Presidential permit holders and potential transferees with increased transparency regarding the procedures that the Department intends to follow with respect to such requests, the Department is issuing this public notice, which supersedes Public Notice 5092 in its entirety. This notice also clarifies that a request by an existing permit holder limited to changing the name of the entity holding the permit can be processed by the Department in a more expedited manner. The Department reserves the right to deviate from these procedures in particular cases.

Procedures for Transfers of Ownership or Control of Cross-Border Facilities

1. If the notification to the Department is limited to a change or proposed change in ownership or control of cross-border facilities subject to Executive Order 11423, as amended, and Executive Order 13337, and does not include any other change involving the permitted facilities, an entity seeking to transfer such control or ownership shall provide in writing:

(a) A commitment to the Department that it will abide by the relevant terms and conditions of the previously-issued permit;

(b) Information identifying the entities and/or persons who will own and/or control the facilities (including details regarding place of incorporation or organization; ultimate ownership; ownership or control by any non-U.S. person; any special arrangements regarding control; and other relevant information);

(c) Information concerning its acquisition or proposed acquisition of the relevant facility, bridge, or border crossing from the prior permit holder (including transfer instruments, as relevant); and

(d) Any other relevant information concerning its operation of the facility, bridge, or border crossing.

2. The Department will evaluate what further steps it may take, consistent with NEPA, with respect to environmental review of the notified permit transfer in light of the available information. Provided that no information is brought to the Department's attention that the transfer potentially would have a significant impact on the quality of the human environment; the transferee commits to abide by the relevant terms and conditions of the previously-issued permit; and the transferee further indicates that the operations of the relevant facility, bridge, or border crossing will remain essentially unchanged from that previously authorized, the Department will notify the transferee that it will not conduct an environmental review.

3. The Department will seek the views of other Executive departments and agencies, as appropriate, as to whether the transfer should affect the prior determination by the President, the Secretary, or the Secretary's delegate that resulted in the issuance of the existing permit. If, however, either before or after such interagency consultation the Secretary of State or his delegate determines that the transfer requires a new national interest determination and issuance of a new permit, the Department will process the application in accordance with the procedures for issuance of a new permit set forth in Executive Order 11423, as amended, or Executive Order 13337, as applicable. Otherwise, the Department will issue a notice in the **Federal Register** recording the change within 90 days of either the date on which the Department notifies the transferee under paragraph two above or the date on which the Department completes its environmental review.

Procedures for Name Changes of Permit Holder of Cross-Border Facilities

If the notification to the Department is limited to a change in the entity's name and does not include any change in ownership or control of the permitted facilities, or any other change involving the facilities, the procedures listed above are inapplicable and the Department will confirm its receipt of such notification and indicate what information, if any, the Department requires to process the notification as complete. The Department will issue a notice in the **Federal Register** recording this change within 90 days of receiving a completed notification.

Further information can be found at the *https://www.state.gov/p/wha/rt/permit/index.htm.*

Judith G. Garber,

Acting Assistant Secretary of State for Oceans and International Environmental and Scientific Affairs.

[FR Doc. 2017–18952 Filed 9–6–17; 8:45 am]

BILLING CODE 4710–AE–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[Summary Notice No. PE–2017–66]

Petition for Exemption; Summary of Petition Received; Flight Training International, Inc.

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of petition of exemption received.

SUMMARY: This notice contains a summary of a petition seeking relief from specified requirements of 14 CFR. The purpose of this notice is to improve the public's awareness of, and participation in, this aspect of FAA's regulatory activities. Neither publication of this notice nor the inclusion or omission of information in the summary is intended to affect the legal status of the petition or its final disposition.

DATES: Comments on this petition must identify the petition docket number and must be received on or before September 27, 2017.

ADDRESSES: You may send comments identified by Docket Number FAA–2017–2058 using any of the following methods:

- *Government-wide rulemaking Web site:* Go to *http://www.regulations.gov* and follow the instructions for sending your comments electronically.
- *Mail:* Send comments to the Docket Management Facility; U.S. Department of Transportation, 1200 New Jersey Avenue SE., West Building Ground Floor, Room Q12–140, Washington, DC 20590.
- *Fax:* Fax comments to the Docket Management Facility at 202–493–2251.
- *Hand Delivery:* Bring comments to the Docket Management Facility; U.S. Department of Transportation, 1200 New Jersey Avenue SE., West Building Ground Floor, Room Q12–140, Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.
- *Privacy:* We will post all comments we receive, without change, to *http://www.regulations.gov*, including any personal information you provide. Using the search function of our docket Web site, anyone can find and read the comments received into any of our dockets, including the name of the individual sending the comment (or signing the comment for an association, business, labor union, etc.). You may review DOT's complete Privacy Act Statement in the **FEDERAL REGISTER** published on April 11, 2000 (65 FR 19477–78).

Docket: To read background documents or comments received, go to *http://www.regulations.gov* at any time or to the Docket Management Facility in Room W12–140 of the West Building Ground Floor at 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Brent Hart, (202) 267–4034, Office of Rulemaking, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591.

This notice is published pursuant to 14 CFR 11.85.

Issued in Washington, DC, on August 30, 2017.

Lirio Liu,

Director, Office of Rulemaking.

Petition for Exemption

Docket No.: FAA–2017–0508.

Petitioner: Flight Training International, Inc.

Section of 14 CFR Affected: 63.39 (b)(1) and (2).

Description of Relief Sought: Petitioner is seeking an exemption for its flight engineer training and testing accomplished in accordance with its part 142 approved programs to allow flight engineer applicants to use advanced pictorial means to satisfy the requirements of § 63.39(b)(1) to perform preflight inspection and to use a Flight Simulation Device to satisfy the requirements of both § 63.39(b)(1) to perform servicing, starting, pre-takeoff, and post-landing procedures, and the requirements of § 63.39(b)(2) to perform the normal duties and procedures relating to the airplane, airplane engines, systems, and appliances.

[FR Doc. 2017–18895 Filed 9–6–17; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Public Notice for Waiver of Aeronautical Land-Use Assurance; Willow Run Airport, Detroit, Michigan

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of intent of waiver with respect to land.

SUMMARY: The FAA is considering a proposal to change 3.44 acres of airport land from aeronautical use to non-aeronautical use and to authorize the sale of airport property located at Willow Run Airport, Detroit, Michigan. The aforementioned land is not needed for aeronautical use.

The property is located in the southwest corner of the airport. It is outside of the airport operations area and is currently used as a Hazardous Waste Landfill. In 1996 the Federal Aviation Administration released 13.34 acres on this site to accommodate the Landfill. This proposal will release the remainder of the site. The proposed use will remain as a Hazardous Waste Landfill.

DATES: Comments must be received on or before October 10, 2017.

ADDRESSES: Documents are available for review by appointment at the FAA Detroit Airports District Office, Alex Erskine, Program Manager, 11677 South Wayne Road, Suite 107, Romulus, Michigan 48174. Telephone: (734) 229–2927/Fax: (734) 229–2950 and Mr. Kevin C. Clark, Assistant General Counsel, Wayne County Airport Authority, L.C. Smith Building-Mezzanine, Detroit, Michigan 48242. Telephone: (734) 247–7333.

Written comments on the Sponsor's request must be delivered or mailed to: Alex Erskine, Program Manager, Federal Aviation Administration, Detroit Airports District Office, 11677 South Wayne Road, Suite 107, Romulus, Michigan 48174, Telephone Number: (734) 229–2927/FAX Number: (734) 229–2950.

FOR FURTHER INFORMATION CONTACT: Alex Erskine, Program Manager, Federal Aviation Administration, Detroit Airports District Office, 11677 South Wayne Road, Suite 107, Romulus, Michigan 48174, Telephone Number: (734) 229–2927/FAX Number: (734) 229–2950.

SUPPLEMENTARY INFORMATION: In accordance with section 47107(h) of Title 49, United States Code, this notice is required to be published in the **Federal Register** 30 days before modifying the land-use assurance that requires the property to be used for an aeronautical purpose.

The property is outside of the airport operations area and is currently used as a Hazardous Waste Landfill. The property is surplus property from the U.S. Government. It was initially transferred to the University of Michigan in 1947. In 1977, the University of Michigan transferred title of the Willow Run Airport, including this parcel, to the County of Wayne, Michigan. In 1996 the Federal Aviation Administration released 13.34 acres on this site to accommodate the landfill. This proposal will release the remainder of the site. The proposed use will remain as a Hazardous Waste Landfill. The airport sponsor is now requesting to transfer title to this property to Ford

Motor Company which is currently operating the landfill.

This notice announces that the FAA is considering the release of the subject airport property at the Willow Run Airport, Detroit, Michigan from federal land covenants, subject to a reservation for continuing right of flight as well as restrictions on the released property as required in FAA Order 5190.6B section 22.16. Approval does not constitute a commitment by the FAA to financially assist in the disposal of the subject airport property nor a determination of eligibility for grant-in-aid funding from the FAA.

Part of the NW ¼ and the SW ¼ of Section 18, T3S–R8E, Van Buren Township, Wayne County, Michigan, more particularly described as follows: Commencing at the NW Corner of Section 18, thence along the West line of Section 18, S 02°19′10″ E., 2647.93 feet, to the West ¼ Corner of Section 18; thence along the East-West ¼ line of Section 18, N 88°35′19″ E., 464.50 feet, to the POINT OF BEGINNING of the parcel to be described; thence along the West line of Willow Run Airport, the following 2 courses. (1) N 35°26′31″ W., 214.67 feet and (2) N 08°48′40″ W., 85.44 feet; thence N 48°25′55″ E., 598.34 feet; thence S 41°34′37″ E., 1103.42 feet; thence S 48°26′41″ W., 21.19 feet; thence S 41°34′42″ E., 39.06 feet; thence S 48°26′06″ W., 225.00 feet; thence N 41°35′53″ W., 39.09 feet; thence S 48°26′41″ W., 110.59 feet; thence S 85°05′04″ W., 235.97 feet; thence S 48°25′42″ W., 157.05 feet; thence N 35°24′30″ W., 80.73 feet; thence S 48°28′06″ W., 51.83 feet; thence along the West line of Willow Run Airport, the following 2 courses. (1) N 06°54′08″ W., 30.40 feet and (2) N 35°26′31″ W., 575.17 feet to the POINT OF BEGINNING, EXCEPTION the following described parcel. Part of the NW ¼ and the SW ¼ of Section 18, T3S–R8E, Van Buren Township, Wayne County, Michigan, more particularly described as follows: Commencing at the NW Corner of Section 18, thence along the West line of Section 18, S 02°19′10″ E., 2647.93 feet, to the West ¼ Corner of Section 18; thence along the East-West ¼ line of Section 18, N 88°35′19″ E., 509.41 feet, to the POINT OF BEGINNING of the parcel to be described; thence N 35°25′12″ W., 202.94 feet; thence N 48°25′50″ E., 590.22 feet; thence S 41°34′37″ E., 1030.00 feet; thence S 48°26′06″ W., 225.00 feet; thence N 41°35′53″ W., 180.00 feet; thence S 48°25′42″ W., 456.87 feet; thence N 35°24′30″ W., 651.98 feet to the POINT OF BEGINNING containing 3.44 acres, more or less. Being subject to any and all easements, reservations or restrictions of record.

Issued in Romulus, Michigan, on August 17, 2017.

John L. Mayfield, Jr.,

Manager, Detroit Airports District Office, FAA, Great Lakes Region.

[FR Doc. 2017–18323 Filed 9–6–17; 8:45 am]

BILLING CODE P

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

[Docket No. FHWA–2017–0037]

Agency Information Collection Activities: Request for Comments for a New Information Collection

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice and request for comments.

SUMMARY: The FHWA has forwarded the information collection request described in this notice to the Office of Management and Budget (OMB) for approval of a new information collection. We published a **Federal Register** Notice with a 60-day public comment period on this information collection on June 19, 2017. We are required to publish this notice in the **Federal Register** by the Paperwork Reduction Act of 1995.

DATES: Please submit comments by October 10, 2017.

ADDRESSES: You may send comments within 30 days to the Office of Information and Regulatory Affairs, Office of Management and Budget, 725 17th Street NW., Washington, DC 20503, Attention DOT Desk Officer. You are asked to comment on any aspect of this information collection, including: (1) Whether the proposed collection is necessary for the FHWA's performance; (2) the accuracy of the estimated burden; (3) ways for the FHWA to enhance the quality, usefulness, and clarity of the collected information; and (4) ways that the burden could be minimized, including the use of electronic technology, without reducing the quality of the collected information. All comments should include the Docket No. FHWA- 2017–0037.

FOR FURTHER INFORMATION CONTACT: Dana Gigliotti, 202–366–1290, *dana.gigliotti@dot.gov,* Highway Safety Specialist, Office of Safety Programs, Federal Highway Administration, Department of Transportation, 1200 New Jersey Avenue SE., Room E71–324, Washington, DC 20590, Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION:

Title: Inventory of State Compliance on Serious Injury Reporting Using the Model Minimum Uniform Crash Criteria 4th Edition.

Type of request: New information collection requirement.

Background: The Federal Highway Administration (FHWA) Office of Safety's mission is to exercise leadership throughout the highway community to make the Nation's roadways safer by developing, evaluating, and deploying life-saving countermeasures; advancing the use of scientific methods and data-driven decisions, fostering a safety culture, and promoting an integrated, multidisciplinary 4 E's (Engineering, Education, Enforcement, Education) approach to safety. The mission is carried out through the Highway Safety Improvement Program (HSIP), a data driven strategic approach to improving highway safety on all public roads that focuses on performance. The goal of the program is to achieve a significant reduction in traffic fatalities and serious injuries on all public roads, including non-State-owned public roads and roads on tribal lands.

In keeping with that mission, the United States Congress on June 29, 2012 passed the Moving Ahead for Progress in the 21st Century Act (MAP–21), which was signed into law (Pub. L. 112–141) on July 6, 2012 by President Barrack Obama and continued in the Fixing America's Surface Transportation Act (FAST Act). MAP–21 is a milestone for the U.S. economy and the Nation's surface transportation program as it transformed the policy and programmatic framework for investments to guide the system's growth and development and created a streamlined performance-based surface transportation program. The FHWA defines Transportation Performance Management (TPM) as a strategic approach that uses system information to make investment and policy decisions to achieve national performance goals.

MAP–21 required the Secretary of Transportation to establish performance measures for States to use to assess serious injuries and fatalities per vehicle mile traveled; and the number of serious injuries and fatalities, for the purposes of carrying out the HSIP under 23 U.S.C. 148. The HSIP is applicable to all public roads and therefore requires crash reporting by law enforcement agencies that have jurisdiction over them.

In defining performance measures for serious injuries, FHWA requires national reporting by States using a uniform definition for national reporting

in this performance area, as required by MAP–21. An established standard for defining serious injuries as a result of motor vehicle related crashes has been developed in the 4th edition of the Model Minimum Uniform Crash Criteria (MMUCC). MMUCC represents a voluntary and collaborative effort to generate uniform crash data that are accurate, reliable and credible for data-driven highway safety decisions within a State, between States, and at the national level. The MMUCC defines a serious injury resulting from traffic crashes as ''Suspected Serious Injury (A)'' whose attributes are: Any injury, other than fatal, which results in one or more of the following: Severe laceration resulting in exposure of underlying tissues, muscle, organs, or resulting in significant loss of blood; broken or distorted extremity (arm or leg); crush injuries; suspected skull, chest, or abdominal injury other than bruises or minor lacerations; significant burns (second and third degree burns over 10 percent or more of the body); unconsciousness when taken from the crash scene; or paralysis.

As part of the national requirement to report serious injuries using the MMUCC 4th Edition definition, the FHWA seeks to determine if States have adopted the MMUCC 4th edition definition, attribute and coding convention by the required April 15, 2019 date. Specifically, States will be considered compliant with the serious injury definition requirement if it: Maintains a statewide crash database capable of accurately aggregating the MMUCC 4th Edition injury status attribute for ''Suspected Serious Injury (A); Ensures the State crash database, data dictionary and crash report user manual employs the verbatim terminology and definitions for the MMUCC 4th Edition injury status attribute Suspected Serious Injury (A); Ensures the police crash form employs the verbatim MMUCC 4th Edition injury status attribute for Suspected Serious Injury (A); Ensures that the seven serious injury types specified in the Suspected Serious Injury (A) attribute are not included in any of the other attributes listed in the States' injury status data elements are MMUCC compliant.

The purpose of the information collection is to assess each States' ability to report serious injuries using the new Federal definition. This assessment will require consultation with the State database owner, State law enforcement agency and possibly county and municipal law enforcement agencies that don't use the State form.

Respondents: State, the District of Columbia, Puerto Rico, tribal and local traffic records management agencies and law enforcement. (75 total).

Frequency: One time collection.

Estimated Average Burden per Response: It will take approximately 30 minutes per participant.

Estimated Total Annual Burden Hours: Approximately 37 hours for a one-time collection.

Public Comments Invited: You are asked to comment on any aspect of this information collection, including: (1) Whether the proposed collection of information is necessary for the U.S. DOT's performance, including whether the information will have practical utility; (2) the accuracy of the U.S. DOT's estimate of the burden of the proposed information collection; (3) ways to enhance the quality, usefulness, and clarity of the collected information; and (4) ways that the burden could be minimized, including the use of electronic technology, without reducing the quality of the collected information. The agency will summarize and/or include your comments in the request for OMB's clearance of this information collection.

Authority: The Paperwork Reduction Act of 1995; 44 U.S.C. Chapter 35, as amended; and 49 CFR 1.48.

Issued On: August 31, 2017.

Michael Howell,

Information Collection Officer.

[FR Doc. 2017–18990 Filed 9–6–17; 8:45 am]

BILLING CODE 4910–22–P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket No. FMCSA–2014–0385]

Qualification of Drivers; Exemption Applications; Hearing

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), DOT.

ACTION: Notice of renewal of exemptions; request for comments.

SUMMARY: FMCSA announces its decision to renew exemptions for four individuals from the hearing requirement in the Federal Motor Carrier Safety Regulations (FMCSRs) for interstate commercial motor vehicle (CMV) drivers. The exemptions enable these hard of hearing and deaf individuals to continue to operate CMVs in interstate commerce.

DATES: The renewed exemptions were applicable on August 13, 2017. The exemptions expire on August 13, 2019. Comments must be received on or before October 10, 2017.

ADDRESSES: You may submit comments bearing the Federal Docket Management System (FDMS) Docket No. FMCSA–2014–0385 using any of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov.* Follow the online instructions for submitting comments.
- *Mail:* Docket Management Facility; U.S. Department of Transportation, 1200 New Jersey Avenue SE., West Building Ground Floor, Room W12–140, Washington, DC 20590–0001.
- *Hand Delivery:* West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m. e.t., Monday through Friday, except Federal Holidays.
- *Fax:* 1–202–493–2251.

Instructions: Each submission must include the Agency name and the docket number(s) for this notice. Note that all comments received will be posted without change to *http://www.regulations.gov,* including any personal information provided. Please see the Privacy Act heading below for further information.

Docket: For access to the docket to read background documents or comments, go to *http://www.regulations.gov* at any time or Room W12–140 on the ground level of the West Building, 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., e.t., Monday through Friday, except Federal holidays. The FDMS is available 24 hours each day, 365 days each year. If you want acknowledgment that we received your comments, please include a self-addressed, stamped envelope or postcard or print the acknowledgement page that appears after submitting comments online.

Privacy Act: In accordance with 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its rulemaking process. DOT posts these comments, without edit, including any personal information the commenter provides, to *http://www.regulations.gov,* as described in the system of records notice (DOT/ALL–14 FDMS), which can be reviewed at *http://www.dot.gov/privacy.*

FOR FURTHER INFORMATION CONTACT: Ms. Christine A. Hydock, Chief, Medical Programs Division, 202–366–4001, *fmcsamedical@dot.gov,* FMCSA, Department of Transportation, 1200 New Jersey Avenue SE., Room W64–224, Washington, DC 20590–0001. Office hours are from 8:30 a.m. to 5

p.m., e.t., Monday through Friday, except Federal holidays. If you have questions regarding viewing or submitting material to the docket, contact Docket Services, telephone (202) 366–9826.

SUPPLEMENTARY INFORMATION:

I. Background

Under 49 U.S.C. 31136(e) and 31315, FMCSA may grant an exemption for two years if it finds ''such exemption would likely achieve a level of safety that is equivalent to or greater than the level that would be achieved absent such exemption.'' The statute also allows the Agency to renew exemptions at the end of the two-year period.

The physical qualification standard for drivers regarding hearing found in 49 CFR 391.41(b)(11) states that a person is physically qualified to drive a CMV if that person:

> First perceives a forced whispered voice in the better ear at not less than 5 feet with or without the use of a hearing aid or, if tested by use of an audiometric device, does not have an average hearing loss in the better ear greater than 40 decibels at 500 Hz, 1,000 Hz, and 2,000 Hz with or without a hearing aid when the audiometric device is calibrated to American National Standard (formerly ASA Standard) Z24.5—1951.

49 CFR 391.41(b)(11) was adopted in 1970, with a revision in 1971 to allow drivers to be qualified under this standard while wearing a hearing aid, 35 FR 6458, 6463 (April 22, 1970) and 36 FR 12857 (July 3, 1971).

The four individuals listed in this notice have requested renewal of their exemptions from the hearing standard in 49 CFR 391.41(b)(11), in accordance with FMCSA procedures. Accordingly, FMCSA has evaluated these applications for renewal on their merits and decided to extend each exemption for a renewable two-year period.

II. Request for Comments

Interested parties or organizations possessing information that would otherwise show that any, or all, of these drivers are not currently achieving the statutory level of safety should immediately notify FMCSA. The Agency will evaluate any adverse evidence submitted and, if safety is being compromised or if continuation of the exemption would not be consistent with the goals and objectives of 49 U.S.C. 31136(e) and 31315, FMCSA will take immediate steps to revoke the exemption of a driver.

III. Basis for Renewing Exemptions

Under 49 U.S.C. 31315(b)(1), an exemption may be granted for no longer than two years from its approval date and may be renewed upon application. In accordance with 49 U.S.C. 31136(e) and 31315, each of the twelve applicants has satisfied the renewal conditions for obtaining an exemption from the hearing requirement (80 FR 57032; 80 FR 60747). In addition, for Commercial Driver's License (CDL) holders, the Commercial Driver's License Information System (CDLIS) and the Motor Carrier Management Information System (MCMIS) are searched for crash and violation data. For non-CDL holders, the Agency reviews the driving records from the State Driver's Licensing Agency (SDLA). These factors provide an adequate basis for predicting each driver's ability to continue to safely operate a CMV in interstate commerce.

The four drivers in this notice remain in good standing with the Agency and have not exhibited any medical issues that would compromise their ability to safely operate a CMV during the previous two-year exemption period. FMCSA has concluded that renewing the exemptions for each of these applicants is likely to achieve a level of safety equal to that existing without the exemption. Therefore, FMCSA has decided to renew each exemption for a two-year period. In accordance with 49 U.S.C. 31136(e) and 31315, each driver has received a renewed exemption.

As of August 13, 2017, the following four drivers have satisfied the renewal conditions for obtaining an exemption from the hearing requirement in 49 CFR 391.41(b)(11), from driving CMVs in interstate commerce (80 FR 40125):

Harold R. Deavers (WV)
Emil Iontchev (IL)
Jerald M. McCrary (NC)
William K. Jones (MN)

The drivers were included in FMCSA–2014–0385. The exemptions were effective on August 13, 2017, and will expire on August 13, 2019.

IV. Conditions and Requirements

The exemptions are extended subject to the following conditions: (1) Each driver must report any crashes or accidents as defined in 49 CFR 390.5; and (2) report all citations and convictions for disqualifying offenses under 49 CFR part 383 and 49 CFR 391 to FMCSA. In addition, the driver must also have a copy of the exemption when driving, for presentation to a duly authorized Federal, State, or local enforcement official. The driver is prohibited from operating a motorcoach or bus with passengers in interstate commerce. The exemption does not exempt the individual from meeting the applicable CDL testing requirements. Each exemption will be valid for two years unless rescinded earlier by FMCSA. The exemption will be rescinded if: (1) The person fails to comply with the terms and conditions of the exemption; (2) the exemption has resulted in a lower level of safety than was maintained before it was granted; or (3) continuation of the exemption would not be consistent with the goals and objectives of 49 U.S.C. 31136(e) and 31315.

V. Conclusion

Based upon its evaluation of the four exemption applications, FMCSA renews the exemptions of the aforementioned drivers from the hearing requirement in 49 CFR 391.41 (b)(11). In accordance with 49 U.S.C. 31136(e) and 31315, each exemption will be valid for two years unless revoked earlier by FMCSA.

Issued on: August 30, 2017.

Larry W. Minor,

Associate Administrator for Policy.

[FR Doc. 2017–18984 Filed 9–6–17; 8:45 am]

BILLING CODE 4910–EX–P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket No. FMCSA–2017–0197]

Hours of Service of Drivers: National Asphalt Pavement Association, Inc.; Application for Exemption

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), DOT.

ACTION: Notice of application for exemption; request for comments.

SUMMARY: FMCSA announces that it has received an application from the National Asphalt Pavement Association, (Inc.) (NAPA) requesting exemptions from two requirements of the hours-of-service (HOS) regulations for drivers of certain commercial motor vehicles (CMVs) operated by NAPA members, the 30-minute rest break provision and the requirement that short-haul drivers utilizing the record of duty status (RODS) exception return to their work-reporting location within 12 hours of coming on duty. The first exemption would enable drivers engaged in the transportation of asphalt and related materials to use 30 minutes or more of on-duty ''waiting time'' to satisfy the requirement for the 30-minute rest break, provided they do not perform any other work during the break. The second exemption would allow these drivers to use the short-haul exception but return to their work-reporting location within 14 hours instead of the usual 12 hours.

FMCSA requests public comment on NAPA's application for exemptions.

DATES: Comments must be received on or before October 10, 2017.

ADDRESSES: You may submit comments identified by Federal Docket Management System Number FMCSA–2017–0197 by any of the following methods:

- *Federal eRulemaking Portal: www.regulations.gov.* See the *Public Participation and Request for Comments* section below for further information.
- *Mail:* Docket Management Facility, U.S. Department of Transportation, 1200 New Jersey Avenue SE., West Building, Ground Floor, Room W12–140, Washington, DC 20590–0001.
- *Hand Delivery or Courier:* West Building, Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., between 9 a.m. and 5 p.m. E.T., Monday through Friday, except Federal holidays.
- *Fax:* 1–202–493–2251.

Each submission must include the Agency name and the docket number for this notice. Note that DOT posts all comments received without change to *www.regulations.gov,* including any personal information included in a comment. Please see the *Privacy Act* heading below.

Docket: For access to the docket to read background documents or comments, go to *www.regulations.gov* at any time or visit Room W12–140 on the ground level of the West Building, 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., ET, Monday through Friday, except Federal holidays. The on-line FDMS is available 24 hours each day, 365 days each year.

Privacy Act: In accordance with 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its rulemaking process. DOT posts these comments, without edit, including any personal information the commenter provides, to *www.regulations.gov,* as described in the system of records notice (DOT/ALL–14 FDMS), which can be reviewed at *www.dot.gov/privacy.*

FOR FURTHER INFORMATION CONTACT: For information concerning this notice, please contact Mr. Tom Yager, Chief, FMCSA Driver and Carrier Operations Division; Telephone: (614) 942–6477; Email: *MCPSD@dot.gov.* If you have questions on viewing or submitting material to the docket, contact Docket Services, telephone (202) 366–9826.

SUPPLEMENTARY INFORMATION:

I. Public Participation and Request for Comments

FMCSA encourages you to participate by submitting comments and related materials.

Submitting Comments

If you submit a comment, please include the docket number for this notice (FMCSA–2017–0197), indicate the specific section of this document to which the comment applies, and provide a reason for suggestions or recommendations. You may submit your comments and material online or by fax, mail, or hand delivery, but please use only one of these means. FMCSA recommends that you include your name and a mailing address, an email address, or a phone number in the body of your document so the Agency can contact you if it has questions regarding your submission.

To submit your comment online, go to *www.regulations.gov* and put the docket number, ''FMCSA–2017–0197'' in the ''Keyword'' box, and click ''Search.'' When the new screen appears, click on ''Comment Now!'' button and type your comment into the text box in the following screen. Choose whether you are submitting your comment as an individual or on behalf of a third party and then submit. If you submit your comments by mail or hand delivery, submit them in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. If you submit comments by mail and would like to know that they reached the facility, please enclose a stamped, self-addressed postcard or envelope. FMCSA will consider all comments and material received during the comment period and may grant or not grant this application based on your comments.

II. Legal Basis

FMCSA has authority under 49 U.S.C. 31136(e) and 31315 to grant exemptions from certain Federal Motor Carrier Safety Regulations (FMCSRs). FMCSA must publish a notice of each exemption request in the **Federal Register** (49 CFR 381.315(a)). The Agency must provide the public an opportunity to inspect the information relevant to the application, including any safety analyses that have been conducted. The Agency must also provide an opportunity for public comment on the request.

The Agency reviews safety analyses and public comments submitted, and determines whether granting the exemption would likely achieve a level of safety equivalent to, or greater than, the level that would be achieved by the current regulation (49 CFR 381.305). The decision of the Agency must be published in the **Federal Register** (49 CFR 381.315(b)) with the reasons for denying or granting the application and, if granted, the name of the person or class of persons receiving the exemption, and the regulatory provision from which the exemption is granted. The notice must also specify the effective period (up to 5 years) and explain the terms and conditions of the exemption. The exemption may be renewed (49 CFR 381.300(b)).

III. Request for Exemption

NAPA seeks exemptions for all drivers of member companies transporting asphalt and related materials and equipment from the HOS 30-minute rest break provision in 49 CFR 395.3(a)(3)(ii) and the restriction of the RODS exception for short-haul operations to drivers who return to their normal work-reporting location within 12 hours [49 CFR 395.1(e)(1)(ii)(A)].

The first exemption from the HOS rest break provision, if granted, would enable drivers engaged in the transportation of asphalt and related materials to use 30 minutes or more of on-duty ''waiting time'' to satisfy the requirement for the 30-minute rest break, provided they do not perform any other work during the break. According to NAPA, asphalt is a highly perishable product. It is loaded into the delivery truck at 280–300 degrees Fahrenheit and begins to cool immediately. If the asphalt is not delivered and placed on the paving site within two hours, the product hardens and is no longer vicous enough to be useable. Drivers of asphalt delivery vehicles typically drive approximately one-third of their workday; the rest of their day is spent waiting to load or unload their vehicles and in other non-driving duties such as paperwork and cleaning their trucks after each load.

The second exemption, if granted, would allow these same drivers to use the short-haul RODS exception but with a 14-hour duty period instead of 12 hours. NAPA advises that while some short-haul drivers will be able to take advantange of the exception from the 30-minute break, other drivers are often required to be on duty more than 12 hours in a day and therefore are not eligible to use the short-haul exception.

NAPA mentioned that drivers of ready-mixed concrete delivery vehicles were granted an exemption from the minimum 30-minute rest break provision.[1] NAPA states that ''the same

[1] More precisely, section 5521 of the Fixing America's Surface Transportation (FAST) Act, exempts a ''driver of a ready mixed concrete delivery vehicle'' from all of the normal hours-of-service regulations, including the 30-minute break rule, who operates within a 100 air-mile radius of his/her normal work reporting location and meets certain other requirements [Pub. L. 114–94, 129 Stat. 1312, 1559, Dec. 4, 2015, codified at 49 U.S.C. 31502(f)]. In addition, FMCSA granted drivers of ready mixed concrete trucks an exemption from the

reasoning supporting the exemptions from the 30-minute break time rule and allowing a 14-hour daily on duty-period for drivers of ready-mixed concrete vehicles applies to drivers engaged in the transportation of asphalt and related materials and equipment. Both are perishable products that are not useable if they are not dropped and spread within a brief delivery window. Because of this short delivery window, the routes from the production facility to the delivery site for both products are limited to less than 40 miles, and the time spent actually driving a CMV is typically only a few hours per day. Thus in both cases, the drivers do not face the same fatigue factors as drivers of long-haul trucks, and therefore do not pose the same risk of a fatigue-related accident as long-haul drivers.''

NAPA requests that the operation of certain vehicles and equipment (Water Truck, Tack (tar) Distributor, Equipment Hauler and Pick-Sweeper (Street Sweeper)) be included in the definition of ''transportation of asphalt and related materials and equipment'' for purposes of these exemptions.

NAPA states in its application that drivers would remain subject to the HOS regulations and would receive sufficient rest due to the nature of their operations that limit driving to an average of six to seven hours per day or less during the paving season. NAPA believes that granting these exemptions would achieve the same level of safety provided by the two HOS rules. The requested exemptions are for 5 years with renewals. A copy of NAPA's application for exemptions is available for review in the docket for this notice.

Issued on: August 30, 2017.

Larry W. Minor,

Associate Administrator for Policy.

[FR Doc. 2017–18985 Filed 9–6–17; 8:45 am]

BILLING CODE 4910–EX–P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

[Docket Number FRA–2017–0076]

Petition for Waiver of Compliance

Under Part 211 of Title 49 of the Code of Federal Regulations (CFR), this document provides the public notice that on July 24, 2017 the New York Susquehanna & Western Technical & Historical Society (THSX) petitioned the Federal Railroad Administration (FRA) for a waiver of compliance from certain provisions of the Federal railroad safety regulations contained at Title 49 Code of Federal Regulations Part 230—*Steam Locomotive Inspection and Maintenance Standards.* FRA assigned the petition docket number FRA–2017–0076.

THSX maintains and operates No. 142, a 2–8–2 ''Mikado'' type steam locomotive built in 1989 by the Tangshan Locomotive Works in China for the New York, Susquehanna & Western Railroad. THSX requests relief from performing the 1472 service day inspection (SDI), for No. 142, regarding inspection of the boiler every 15 calendar years or 1472 service days. This is required under CFR 49 Section 230.17—*One thousand four hundred seventy-two (1472) service day inspection.* THSX is requesting an additional 58 calendar days before performing a 1472 SDI. The previous SDI was performed on September 2, 2002. Granting relief will allow No. 142 an SDI period of 15 calendar years and 58 calendar days while not exceeding 1472 service days.

No. 142 is operated by THSX on Belvedere & Delaware Railroad for weekly tourist service. THSX's justification for requesting relief is that No. 142 has only operated for a total 640 service days within the 15-calendar year period. The extension will allow No. 142 to operate through their busiest tourist season. THSX anticipates approximately 18 additional service days during the requested time extension.

A copy of the petition, as well as any written communications concerning the petition, is available for review online at *www.regulations.gov* and in person at the Department of Transportation's Docket Operations Facility, 1200 New Jersey Ave. SE., W12–140, Washington, DC 20590. The Docket Operations Facility is open from 9 a.m. to 5 p.m., Monday through Friday, except Federal Holidays.

Interested parties are invited to participate in these proceedings by submitting written views, data, or comments. FRA does not anticipate scheduling a public hearing in connection with these proceedings since the facts do not appear to warrant a hearing. If any interested parties desire an opportunity for oral comment, they should notify FRA, in writing, before the end of the comment period and specify the basis for their request.

All communications concerning these proceedings should identify the appropriate docket number and may be submitted by any of the following methods:

- *Web site: http://www.regulations.gov.* Follow the online instructions for submitting comments.
- *Fax:* 202–493–2251.
- *Mail:* Docket Operations Facility, U.S. Department of Transportation, 1200 New Jersey Avenue SE., W12–140, Washington, DC 20590.
- *Hand Delivery:* 1200 New Jersey Avenue SE., Room W12–140, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal Holidays.

Communications received by October 23, 2017 will be considered by FRA before final action is taken. Comments received after that date will be considered if practicable.

Anyone can search the electronic form of any written communications and comments received into any of our dockets by the name of the individual submitting the comment (or signing the document, if submitted on behalf of an association, business, labor union, etc.). Under 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its processes. DOT posts these comments, without edit, including any personal information the commenter provides, to *www.regulations.gov,* as described in the system of records notice (DOT/ALL–14 FDMS), which can be reviewed at *https://www.transportation.gov/privacy.* See also *https://www.regulations.gov/privacyNotice* for the privacy notice of *regulations.gov*.

Robert C. Lauby,

Associate Administrator for Railroad Safety, Chief Safety Officer.

[FR Doc. 2017–18898 Filed 9–6–17; 8:45 am]

BILLING CODE 4910–06–P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

[Docket No. MARAD–2017–0160]

Requested Administrative Waiver of the Coastwise Trade Laws: Vessel BONITA; Invitation for Public Comments

AGENCY: Maritime Administration.

ACTION: Notice.

SUMMARY: The Secretary of Transportation, as represented by the Maritime Administration (MARAD), is authorized to grant waivers of the U.S.-build requirement of the coastwise laws under certain circumstances. A request for such a waiver has been received by MARAD. The vessel, and a brief description of the proposed service, is listed below.

30-minute break requirement [80 FR 17819, April 2, 2015], which section 5206(b)(1)(A) of the FAST Act made into permanent law [129 Stat. 1312, 1537].

DATES: Submit comments on or before October 10, 2017.

ADDRESSES: Comments should refer to docket number MARAD–2017–0160. Written comments may be submitted by hand or by mail to the Docket Clerk, U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590. You may also send comments electronically via the Internet at *http://www.regulations.gov.* All comments will become part of this docket and will be available for inspection and copying at the above address between 10:00 a.m. and 5:00 p.m., Monday through Friday, except federal holidays. An electronic version of this document and all documents entered into this docket is available at *http://www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Bianca Carr, U.S. Department of Transportation, Maritime Administration, 1200 New Jersey Avenue SE., Room W23–453, Washington, DC 20590. Telephone 202–366–9309, Email *Bianca.carr@dot.gov.*

SUPPLEMENTARY INFORMATION: As described by the applicant the intended service of the vessel BONITA is:

—*Intended Commerial Use of Vessel:* ''Overnight luxury pleasure time charters for week long or greater charter periods''

—*Geographic Region:* ''Maine, New Hampshire, Massachusetts, Connecticut, Rhode Island, New York, New Jersey, Pennsylvania, Delaware, Maryland, Washington DC, Virginia, North Carolina, South Carolina, Georgia, Florida.''

The complete application is given in DOT docket MARAD–2017–0160 at *http://www.regulations.gov.* Interested parties may comment on the effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. If MARAD determines, in accordance with 46 U.S.C. 12121 and MARAD's regulations at 46 CFR part 388, that the issuance of the waiver will have an unduly adverse effect on a U.S.-vessel builder or a business that uses U.S.-flag vessels in that business, a waiver will not be granted. Comments should refer to the docket number of this notice and the vessel name in order for MARAD to properly consider the comments. Comments should also state the commenter's interest in the waiver application, and address the waiver criteria given in § 388.4 of MARAD's regulations at 46 CFR part 388.

Privacy Act

In accordance with 5 U.S.C. 553(c), DOT/MARAD solicits comments from the public to better inform its rulemaking process. DOT/MARAD posts these comments, without edit, to *www.regulations.gov,* as described in the system of records notice, DOT/ALL–14 FDMS, accessible through *www.dot.gov/privacy.* In order to facilitate comment tracking and response, we encourage commenters to provide their name, or the name of their organization; however, submission of names is completely optional. Whether or not commenters identify themselves, all timely comments will be fully considered. If you wish to provide comments containing proprietary or confidential information, please contact the agency for alternate submission instructions.

(Authority: 49 CFR 1.93(a), 46 U.S.C. 55103, 46 U.S.C. 12121)

* * * * *

By Order of the Maritime Administrator.

Dated: August 31, 2017.

T. Mitchell Hudson, Jr.,

Secretary, Maritime Administration.

[FR Doc. 2017–18879 Filed 9–6–17; 8:45 am]

BILLING CODE 4910–81–P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

[Docket No. MARAD–2017–0163]

Requested Administrative Waiver of the Coastwise Trade Laws: Vessel CLAUDIAN; Invitation for Public Comments

AGENCY: Maritime Administration.

ACTION: Notice.

SUMMARY: The Secretary of Transportation, as represented by the Maritime Administration (MARAD), is authorized to grant waivers of the U.S.-build requirement of the coastwise laws under certain circumstances. A request for such a waiver has been received by MARAD. The vessel, and a brief description of the proposed service, is listed below.

DATES: Submit comments on or before October 10, 2017.

ADDRESSES: Comments should refer to docket number MARAD–2017–0163. Written comments may be submitted by hand or by mail to the Docket Clerk, U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590. You may also send comments electronically via the Internet at *http://www.regulations.gov.* All comments will become part of this docket and will be available for inspection and copying at the above address between 10:00 a.m. and 5:00 p.m., Monday through Friday, except federal holidays. An electronic version of this document and all documents entered into this docket is available at *http://www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Bianca Carr, U.S. Department of Transportation, Maritime Administration, 1200 New Jersey Avenue SE., Room W23–453, Washington, DC 20590. Telephone 202–366–9309, Email *Bianca.carr@dot.gov.*

SUPPLEMENTARY INFORMATION: As described by the applicant the intended service of the vessel CLAUDIAN is:

—*Intended Commercial use of Vessel:* ''Coastal cruise and sunset cruise''

—*Geographic Region:* ''California''

The complete application is given in DOT docket MARAD–2017–0163 at *http://www.regulations.gov.* Interested parties may comment on the effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. If MARAD determines, in accordance with 46 U.S.C. 12121 and MARAD's regulations at 46 CFR part 388, that the issuance of the waiver will have an unduly adverse effect on a U.S.-vessel builder or a business that uses U.S.-flag vessels in that business, a waiver will not be granted. Comments should refer to the docket number of this notice and the vessel name in order for MARAD to properly consider the comments. Comments should also state the commenter's interest in the waiver application, and address the waiver criteria given in § 388.4 of MARAD's regulations at 46 CFR part 388.

Privacy Act

In accordance with 5 U.S.C. 553(c), DOT/MARAD solicits comments from the public to better inform its rulemaking process. DOT/MARAD posts these comments, without edit, to *www.regulations.gov,* as described in the system of records notice, DOT/ALL–14 FDMS, accessible through *www.dot.gov/privacy.* In order to facilitate comment tracking and response, we encourage commenters to provide their name, or the name of their organization; however, submission of names is completely optional. Whether or not commenters identify themselves, all timely comments will be fully considered. If you wish to provide comments containing proprietary or confidential information, please contact

the agency for alternate submission instructions.

Authority: 49 CFR 1.93(a), 46 U.S.C. 55103, 46 U.S.C. 12121.

* * * * *

By Order of the Maritime Administrator.

Dated: August 31, 2017.

T. Mitchell Hudson, Jr.,

Secretary, Maritime Administration.

[FR Doc. 2017–18881 Filed 9–6–17; 8:45 am]

BILLING CODE 4910–81–P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

[Docket No. MARAD–2017–0154]

Requested Administrative Waiver of the Coastwise Trade Laws: Vessel SEA TREAT; Invitation for Public Comments

AGENCY: Maritime Administration.

ACTION: Notice.

SUMMARY: The Secretary of Transportation, as represented by the Maritime Administration (MARAD), is authorized to grant waivers of the U.S.-build requirement of the coastwise laws under certain circumstances. A request for such a waiver has been received by MARAD. The vessel, and a brief description of the proposed service, is listed below.

DATES: Submit comments on or before October 10, 2017.

ADDRESSES: Comments should refer to docket number MARAD–2017–0154. Written comments may be submitted by hand or by mail to the Docket Clerk, U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590. You may also send comments electronically via the Internet at *http://www.regulations.gov.* All comments will become part of this docket and will be available for inspection and copying at the above address between 10:00 a.m. and 5:00 p.m., Monday through Friday, except federal holidays. An electronic version of this document and all documents entered into this docket is available at *http://www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Bianca Carr, U.S. Department of Transportation, Maritime Administration, 1200 New Jersey Avenue SE., Room W23–453, Washington, DC 20590. Telephone 202–366–9309, Email *Bianca.carr@dot.gov.*

SUPPLEMENTARY INFORMATION: As described by the applicant the intended service of the vessel SEA TREAT is:

—*Intended Commercial Use of Vessel:* ''Environmentally friendly sightseeing tours of various types—sailing sunset cruises, coastline and marine wildlife viewing, snorkeling and catch & release sport fishing with a family oriented focus on healthy marine interactions and ecotourism''

—Geographic Region: ''Washington State, Hawaii, Oregon, California, East Florida, Georgia, South Carolina, North Carolina, Virginia, Delaware, Maryland, Rhode Island, Texas''

The complete application is given in DOT docket MARAD–2017–0154 at *http://www.regulations.gov.* Interested parties may comment on the effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. If MARAD determines, in accordance with 46 U.S.C. 12121 and MARAD's regulations at 46 CFR part 388, that the issuance of the waiver will have an unduly adverse effect on a U.S.-vessel builder or a business that uses U.S.-flag vessels in that business, a waiver will not be granted. Comments should refer to the docket number of this notice and the vessel name in order for MARAD to properly consider the comments. Comments should also state the commenter's interest in the waiver application, and address the waiver criteria given in § 388.4 of MARAD's regulations at 46 CFR part 388.

Privacy Act

In accordance with 5 U.S.C. 553(c), DOT/MARAD solicits comments from the public to better inform its rulemaking process. DOT/MARAD posts these comments, without edit, to *www.regulations.gov,* as described in the system of records notice, DOT/ALL–14 FDMS, accessible through *www.dot.gov/privacy.* In order to facilitate comment tracking and response, we encourage commenters to provide their name, or the name of their organization; however, submission of names is completely optional. Whether or not commenters identify themselves, all timely comments will be fully considered. If you wish to provide comments containing proprietary or confidential information, please contact the agency for alternate submission instructions.

Authority: 49 CFR 1.93(a), 46 U.S.C. 55103, 46 U.S.C. 12121.

* * * * *

By Order of the Maritime Administrator.

Dated: August 31, 2017.

T. Mitchell Hudson, Jr.,

Secretary, Maritime Administration.

[FR Doc. 2017–18889 Filed 9–6–17; 8:45 am]

BILLING CODE 4910–81–P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

[Docket No. MARAD–2017–0159]

Requested Administrative Waiver of the Coastwise Trade Laws: Vessel SLOW POKE; Invitation for Public Comments

AGENCY: Maritime Administration, DOT.

ACTION: Notice.

SUMMARY: The Secretary of Transportation, as represented by the Maritime Administration (MARAD), is authorized to grant waivers of the U.S.-build requirement of the coastwise laws under certain circumstances. A request for such a waiver has been received by MARAD. The vessel, and a brief description of the proposed service, is listed below.

DATES: Submit comments on or before October 10, 2017.

ADDRESSES: Comments should refer to docket number MARAD–2017–0159. Written comments may be submitted by hand or by mail to the Docket Clerk, U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590. You may also send comments electronically via the Internet at *http://www.regulations.gov.* All comments will become part of this docket and will be available for inspection and copying at the above address between 10:00 a.m. and 5:00 p.m., Monday through Friday, except federal holidays. An electronic version of this document and all documents entered into this docket is available at *http://www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Bianca Carr, U.S. Department of Transportation, Maritime Administration, 1200 New Jersey Avenue SE., Room W23–453, Washington, DC 20590. Telephone 202–366–9309, Email *Bianca.carr@dot.gov.*

SUPPLEMENTARY INFORMATION: As described by the applicant the intended service of the vessel SLOW POKE is:

—*Intended Commercial Use of Vessel:* ''4-hour tour boat trips''

—*Geographic Region:* ''Maine, New Hampshire, Massachusetts, Rhode Island, Connecticut, New York''

The complete application is given in DOT docket MARAD–2017–0159 at *http://www.regulations.gov.* Interested parties may comment on the effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. If MARAD determines, in accordance with 46 U.S.C. 12121 and

MARAD's regulations at 46 CFR part 388, that the issuance of the waiver will have an unduly adverse effect on a U.S.-vessel builder or a business that uses U.S.-flag vessels in that business, a waiver will not be granted. Comments should refer to the docket number of this notice and the vessel name in order for MARAD to properly consider the comments. Comments should also state the commenter's interest in the waiver application, and address the waiver criteria given in § 388.4 of MARAD's regulations at 46 CFR part 388.

Privacy Act

In accordance with 5 U.S.C. 553(c), DOT/MARAD solicits comments from the public to better inform its rulemaking process. DOT/MARAD posts these comments, without edit, to *www.regulations.gov,* as described in the system of records notice, DOT/ALL–14 FDMS, accessible through *www.dot.gov/privacy.* In order to facilitate comment tracking and response, we encourage commenters to provide their name, or the name of their organization; however, submission of names is completely optional. Whether or not commenters identify themselves, all timely comments will be fully considered. If you wish to provide comments containing proprietary or confidential information, please contact the agency for alternate submission instructions.

(Authority: 49 CFR 1.93(a), 46 U.S.C. 55103, 46 U.S.C. 12121)

* * * * *

By Order of the Maritime Administrator.

Dated: August 31, 2017.

T. Mitchell Hudson, Jr.,

Secretary, Maritime Administration.

[FR Doc. 2017–18890 Filed 9–6–17; 8:45 am]

BILLING CODE 4910–81–P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

[Docket No. MARAD–2017–0153]

Requested Administrative Waiver of the Coastwise Trade Laws: Vessel LIBERTY; Invitation for Public Comments

AGENCY: Maritime Administration, Department of Transportation.

ACTION: Notice.

SUMMARY: The Secretary of Transportation, as represented by the Maritime Administration (MARAD), is authorized to grant waivers of the U.S.-build requirement of the coastwise laws under certain circumstances. A request for such a waiver has been received by MARAD. The vessel, and a brief description of the proposed service, is listed below.

DATES: Submit comments on or before October 10, 2017.

ADDRESSES: Comments should refer to docket number MARAD–2017–0153. Written comments may be submitted by hand or by mail to the Docket Clerk, U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590. You may also send comments electronically via the Internet at *http://www.regulations.gov.* All comments will become part of this docket and will be available for inspection and copying at the above address between 10:00 a.m. and 5:00 p.m., Monday through Friday, except federal holidays. An electronic version of this document and all documents entered into this docket is available at *http://www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Bianca Carr, U.S. Department of Transportation, Maritime Administration, 1200 New Jersey Avenue SE., Room W23–453, Washington, DC 20590. Telephone 202–366–9309, Email *Bianca.carr@dot.gov.*

SUPPLEMENTARY INFORMATION: As described by the applicant the intended service of the vessel LIBERTY is:

—*Intended Commercial Use of Vessel:* ''Passenger transfer sailing charter operations''

—*Geographic Region:* ''California''

The complete application is given in DOT docket MARAD–2017–0153 at *http://www.regulations.gov.* Interested parties may comment on the effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. If MARAD determines, in accordance with 46 U.S.C. 12121 and MARAD's regulations at 46 CFR part 388, that the issuance of the waiver will have an unduly adverse effect on a U.S.-vessel builder or a business that uses U.S.-flag vessels in that business, a waiver will not be granted. Comments should refer to the docket number of this notice and the vessel name in order for MARAD to properly consider the comments. Comments should also state the commenter's interest in the waiver application, and address the waiver criteria given in § 388.4 of MARAD's regulations at 46 CFR part 388.

Privacy Act

In accordance with 5 U.S.C. 553(c), DOT/MARAD solicits comments from the public to better inform its rulemaking process. DOT/MARAD posts these comments, without edit, to *www.regulations.gov,* as described in the system of records notice, DOT/ALL–14 FDMS, accessible through *www.dot.gov/privacy.* In order to facilitate comment tracking and response, we encourage commenters to provide their name, or the name of their organization; however, submission of names is completely optional. Whether or not commenters identify themselves, all timely comments will be fully considered. If you wish to provide comments containing proprietary or confidential information, please contact the agency for alternate submission instructions.

(Authority: 49 CFR 1.93(a), 46 U.S.C. 55103, 46 U.S.C. 12121)

* * * * *

By Order of the Maritime Administrator.

Dated: August 31, 2017.

T. Mitchell Hudson, Jr.,

Secretary, Maritime Administration.

[FR Doc. 2017–18885 Filed 9–6–17; 8:45 am]

BILLING CODE 4910–81–P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

[Docket No. MARAD–2017–0162]

Requested Administrative Waiver of the Coastwise Trade Laws: Vessel SQUISITA; Invitation for Public Comments

AGENCY: Maritime Administration, DOT.

ACTION: Notice.

SUMMARY: The Secretary of Transportation, as represented by the Maritime Administration (MARAD), is authorized to grant waivers of the U.S.-build requirement of the coastwise laws under certain circumstances. A request for such a waiver has been received by MARAD. The vessel, and a brief description of the proposed service, is listed below.

DATES: Submit comments on or before October 10, 2017.

ADDRESSES: Comments should refer to docket number MARAD–2017–0162. Written comments may be submitted by hand or by mail to the Docket Clerk, U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590. You may also send comments electronically via the Internet at *http://www.regulations.gov.* All comments will become part of this docket and will be available for inspection and copying at the above address between 10:00 a.m. and 5:00

p.m., Monday through Friday, except federal holidays. An electronic version of this document and all documents entered into this docket is available at *http://www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Bianca Carr, U.S. Department of Transportation, Maritime Administration, 1200 New Jersey Avenue SE., Room W23–453, Washington, DC 20590. Telephone 202–366–9309, Email *Bianca.carr@dot.gov.*

SUPPLEMENTARY INFORMATION: As described by the applicant the intended service of the vessel SQUISITA is:

—*Intended Commercial Use of Vessel:* ''USCG certified small passenger vessel (SPV) service on a Coastwise route with 12 passengers''

—*Geographic Region:* ''Florida''

The complete application is given in DOT docket MARAD–2017–0162 at *http://www.regulations.gov.* Interested parties may comment on the effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. If MARAD determines, in accordance with 46 U.S.C. 12121 and MARAD's regulations at 46 CFR part 388, that the issuance of the waiver will have an unduly adverse effect on a U.S.-vessel builder or a business that uses U.S.-flag vessels in that business, a waiver will not be granted. Comments should refer to the docket number of this notice and the vessel name in order for MARAD to properly consider the comments. Comments should also state the commenter's interest in the waiver application, and address the waiver criteria given in § 388.4 of MARAD's regulations at 46 CFR part 388.

Privacy Act

In accordance with 5 U.S.C. 553(c), DOT/MARAD solicits comments from the public to better inform its rulemaking process. DOT/MARAD posts these comments, without edit, to *www.regulations.gov,* as described in the system of records notice, DOT/ALL–14 FDMS, accessible through *www.dot.gov/privacy.* In order to facilitate comment tracking and response, we encourage commenters to provide their name, or the name of their organization; however, submission of names is completely optional. Whether or not commenters identify themselves, all timely comments will be fully considered. If you wish to provide comments containing proprietary or confidential information, please contact the agency for alternate submission instructions.

(Authority: 49 CFR 1.93(a), 46 U.S.C. 55103, 46 U.S.C. 12121)

* * * * *

By Order of the Maritime Administrator.

Dated: August 31, 2017.

T. Mitchell Hudson, Jr.,

Secretary, Maritime Administration.

[FR Doc. 2017–18891 Filed 9–6–17; 8:45 am]

BILLING CODE 4910–81–P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

[Docket No. MARAD–2017–0158]

Requested Administrative Waiver of the Coastwise Trade Laws: Vessel KUMA TOO; Invitation for Public Comments

AGENCY: Maritime Administration, Department of Transportation.

ACTION: Notice.

SUMMARY: The Secretary of Transportation, as represented by the Maritime Administration (MARAD), is authorized to grant waivers of the U.S.-build requirement of the coastwise laws under certain circumstances. A request for such a waiver has been received by MARAD. The vessel, and a brief description of the proposed service, is listed below.

DATES: Submit comments on or before October 10, 2017.

ADDRESSES: Comments should refer to docket number MARAD–2017–0158. Written comments may be submitted by hand or by mail to the Docket Clerk, U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590. You may also send comments electronically via the Internet at *http://www.regulations.gov.* All comments will become part of this docket and will be available for inspection and copying at the above address between 10:00 a.m. and 5:00 p.m., Monday through Friday, except federal holidays. An electronic version of this document and all documents entered into this docket is available at *http://www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Bianca Carr, U.S. Department of Transportation, Maritime Administration, 1200 New Jersey Avenue SE., Room W23–453, Washington, DC 20590. Telephone 202–366–9309, Email *Bianca.carr@dot.gov.*

SUPPLEMENTARY INFORMATION: As described by the applicant the intended service of the vessel KUMA TOO is:

—*Intended Commercial Use of Vessel:* ''Private vessel charters, passengers only''

—*Geographic Region:* ''Florida''

The complete application is given in DOT docket MARAD–2017–0158 at *http://www.regulations.gov.* Interested parties may comment on the effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. If MARAD determines, in accordance with 46 U.S.C. 12121 and MARAD's regulations at 46 CFR part 388, that the issuance of the waiver will have an unduly adverse effect on a U.S.-vessel builder or a business that uses U.S.-flag vessels in that business, a waiver will not be granted. Comments should refer to the docket number of this notice and the vessel name in order for MARAD to properly consider the comments. Comments should also state the commenter's interest in the waiver application, and address the waiver criteria given in § 388.4 of MARAD's regulations at 46 CFR part 388.

Privacy Act

In accordance with 5 U.S.C. 553(c), DOT/MARAD solicits comments from the public to better inform its rulemaking process. DOT/MARAD posts these comments, without edit, to *www.regulations.gov,* as described in the system of records notice, DOT/ALL–14 FDMS, accessible through *www.dot.gov/privacy.* In order to facilitate comment tracking and response, we encourage commenters to provide their name, or the name of their organization; however, submission of names is completely optional. Whether or not commenters identify themselves, all timely comments will be fully considered. If you wish to provide comments containing proprietary or confidential information, please contact the agency for alternate submission instructions.

(Authority: 49 CFR 1.93(a), 46 U.S.C. 55103, 46 U.S.C. 12121)

* * * * *

By Order of the Maritime Administrator.

Date: August 31, 2017.

T. Mitchell Hudson, Jr.,

Secretary, Maritime Administration.

[FR Doc. 2017–18882 Filed 9–6–17; 8:45 am]

BILLING CODE 4910–81–P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

[Docket No. MARAD–2017–0156]

Requested Administrative Waiver of the Coastwise Trade Laws: Vessel OLIVIA; Invitation for Public Comments

AGENCY: Maritime Administration

ACTION: Notice.

SUMMARY: The Secretary of Transportation, as represented by the Maritime Administration (MARAD), is authorized to grant waivers of the U.S.-build requirement of the coastwise laws under certain circumstances. A request for such a waiver has been received by MARAD. The vessel, and a brief description of the proposed service, is listed below.

DATES: Submit comments on or before October 10, 2017.

ADDRESSES: Comments should refer to docket number MARAD–2017–0156. Written comments may be submitted by hand or by mail to the Docket Clerk, U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590. You may also send comments electronically via the Internet at *http://www.regulations.gov.* All comments will become part of this docket and will be available for inspection and copying at the above address between 10:00 a.m. and 5:00 p.m., Monday through Friday, except federal holidays. An electronic version of this document and all documents entered into this docket is available at *http://www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Bianca Carr, U.S. Department of Transportation, Maritime Administration, 1200 New Jersey Avenue SE., Room W23–453, Washington, DC 20590. Telephone 202–366–9309, Email *Bianca.carr@dot.gov.*

SUPPLEMENTARY INFORMATION: As described by the applicant the intended service of the vessel OLIVIA is:

—*Intended Commercial use of Vessel:* ''Commercial charter as an UPV for 6 or less passengers''

—*Geographic Region:* ''California, Oregon, Washington''

The complete application is given in DOT docket MARAD–2017–0156 at *http://www.regulations.gov.* Interested parties may comment on the effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. If MARAD determines, in accordance with 46 U.S.C. 12121 and MARAD's regulations at 46 CFR part 388, that the issuance of the waiver will have an unduly adverse effect on a U.S.-vessel builder or a business that uses U.S.-flag vessels in that business, a waiver will not be granted. Comments should refer to the docket number of this notice and the vessel name in order for MARAD to properly consider the comments. Comments should also state the commenter's interest in the waiver application, and address the waiver criteria given in § 388.4 of MARAD's regulations at 46 CFR part 388.

Privacy Act

In accordance with 5 U.S.C. 553(c), DOT/MARAD solicits comments from the public to better inform its rulemaking process. DOT/MARAD posts these comments, without edit, to *www.regulations.gov,* as described in the system of records notice, DOT/ALL–14 FDMS, accessible through *www.dot.gov/privacy.* In order to facilitate comment tracking and response, we encourage commenters to provide their name, or the name of their organization; however, submission of names is completely optional. Whether or not commenters identify themselves, all timely comments will be fully considered. If you wish to provide comments containing proprietary or confidential information, please contact the agency for alternate submission instructions.

Authority: 49 CFR 1.93(a), 46 U.S.C. 55103, 46 U.S.C. 12121.

* * * * *

By Order of the Maritime Administrator.

Dated: August 31, 2017.

T. Mitchell Hudson, Jr.,

Secretary, Maritime Administration.

[FR Doc. 2017–18888 Filed 9–6–17; 8:45 am]

BILLING CODE 4910–81–P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

[Docket No. MARAD–2017–0161]

Requested Administrative Waiver of the Coastwise Trade Laws: Vessel VIRGO MOON; Invitation for Public Comments

AGENCY: Maritime Administration, DOT.

ACTION: Notice.

SUMMARY: The Secretary of Transportation, as represented by the Maritime Administration (MARAD), is authorized to grant waivers of the U.S.-build requirement of the coastwise laws under certain circumstances. A request for such a waiver has been received by MARAD. The vessel, and a brief description of the proposed service, is listed below.

DATES: Submit comments on or before October 10, 2017.

ADDRESSES: Comments should refer to docket number MARAD–2017–0161. Written comments may be submitted by hand or by mail to the Docket Clerk, U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590. You may also send comments electronically via the Internet at *http://www.regulations.gov.* All comments will become part of this docket and will be available for inspection and copying at the above address between 10:00 a.m. and 5:00 p.m., Monday through Friday, except federal holidays. An electronic version of this document and all documents entered into this docket is available at *http://www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Bianca Carr, U.S. Department of Transportation, Maritime Administration, 1200 New Jersey Avenue SE., Room W23–453, Washington, DC 20590. Telephone 202–366–9309, Email *Bianca.carr@dot.gov.*

SUPPLEMENTARY INFORMATION: As described by the applicant the intended service of the vessel VIRGO MOON is:

—*Intended Commercial Use of Vessel:* ''Uninspected Passenger vessel with 6 or less passengers for hire for sailing adventure to remote destinations within the Hawaiian Islands''

—*Geographic Region:* ''Hawaii''

The complete application is given in DOT docket MARAD–2017–0161 at *http://www.regulations.gov.* Interested parties may comment on the effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. If MARAD determines, in accordance with 46 U.S.C. 12121 and MARAD's regulations at 46 CFR part 388, that the issuance of the waiver will have an unduly adverse effect on a U.S.-vessel builder or a business that uses U.S.-flag vessels in that business, a waiver will not be granted. Comments should refer to the docket number of this notice and the vessel name in order for MARAD to properly consider the comments. Comments should also state the commenter's interest in the waiver application, and address the waiver criteria given in § 388.4 of MARAD's regulations at 46 CFR part 388.

Privacy Act

In accordance with 5 U.S.C. 553(c), DOT/MARAD solicits comments from the public to better inform its rulemaking process. DOT/MARAD posts these comments, without edit, to *www.regulations.gov,* as described in the system of records notice, DOT/ALL–14 FDMS, accessible through *www.dot.gov/privacy.* In order to facilitate comment tracking and response, we encourage commenters to provide their name, or the name of their organization; however, submission of names is completely optional. Whether or not commenters identify themselves,

all timely comments will be fully considered. If you wish to provide comments containing proprietary or confidential information, please contact the agency for alternate submission instructions.

(Authority: 49 CFR 1.93(a), 46 U.S.C. 55103, 46 U.S.C. 12121)

* * *

By Order of the Maritime Administrator.

Dated: August 31, 2017.

T. Mitchell Hudson, Jr.

Secretary, Maritime Administration.

[FR Doc. 2017–18893 Filed 9–6–17; 8:45 am]

BILLING CODE 4910–81–P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

[Docket No. MARAD–2017–0165]

Requested Administrative Waiver of the Coastwise Trade Laws: Vessel LIMITLESS; Invitation for Public Comments

AGENCY: Maritime Administration, Department of Transportation.

ACTION: Notice.

SUMMARY: The Secretary of Transportation, as represented by the Maritime Administration (MARAD), is authorized to grant waivers of the U.S.-build requirement of the coastwise laws under certain circumstances. A request for such a waiver has been received by MARAD. The vessel, and a brief description of the proposed service, is listed below.

DATES: Submit comments on or before October 10, 2017.

ADDRESSES: Comments should refer to docket number MARAD–2017–0165. Written comments may be submitted by hand or by mail to the Docket Clerk, U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590. You may also send comments electronically via the Internet at *http://www.regulations.gov.* All comments will become part of this docket and will be available for inspection and copying at the above address between 10:00 a.m. and 5:00 p.m., Monday through Friday, except federal holidays. An electronic version of this document and all documents entered into this docket is available at *http://www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Bianca Carr, U.S. Department of Transportation, Maritime Administration, 1200 New Jersey Avenue SE., Room W23–453, Washington, DC 20590. Telephone 202–366–9309, Email *Bianca.carr@dot.gov.*

SUPPLEMENTARY INFORMATION: As described by the applicant the intended service of the vessel LIMITLESS is:

—*Intended Commercial Use of Vessel:* ''To carry no more than six paying passengers for sailing trips in Tampa Bay and the waters of the Gulf of Mexico''

—*Geographic Region:* ''Florida''

The complete application is given in DOT docket MARAD–2017–0165 at *http://www.regulations.gov.* Interested parties may comment on the effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. If MARAD determines, in accordance with 46 U.S.C. 12121 and MARAD's regulations at 46 CFR part 388, that the issuance of the waiver will have an unduly adverse effect on a U.S.-vessel builder or a business that uses U.S.-flag vessels in that business, a waiver will not be granted. Comments should refer to the docket number of this notice and the vessel name in order for MARAD to properly consider the comments. Comments should also state the commenter's interest in the waiver application, and address the waiver criteria given in § 388.4 of MARAD's regulations at 46 CFR part 388.

Privacy Act

In accordance with 5 U.S.C. 553(c), DOT/MARAD solicits comments from the public to better inform its rulemaking process. DOT/MARAD posts these comments, without edit, to *www.regulations.gov,* as described in the system of records notice, DOT/ALL–14 FDMS, accessible through *www.dot.gov/privacy.* In order to facilitate comment tracking and response, we encourage commenters to provide their name, or the name of their organization; however, submission of names is completely optional. Whether or not commenters identify themselves, all timely comments will be fully considered. If you wish to provide comments containing proprietary or confidential information, please contact the agency for alternate submission instructions.

(Authority: 49 CFR 1.93(a), 46 U.S.C. 55103, 46 U.S.C. 12121)

* * * * *

By Order of the Maritime Administrator.

Date: August 31, 2017.

T. Mitchell Hudson, Jr.,

Secretary, Maritime Administration.

[FR Doc. 2017–18886 Filed 9–6–17; 8:45 am]

BILLING CODE 4910–81–P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

[Docket No. MARAD–2017–0164]

Requested Administrative Waiver of the Coastwise Trade Laws: Vessel NO WORRIES MATE II; Invitation for Public Comments

AGENCY: Maritime Administration, Department of Transportation.

ACTION: Notice.

SUMMARY: The Secretary of Transportation, as represented by the Maritime Administration (MARAD), is authorized to grant waivers of the U.S.-build requirement of the coastwise laws under certain circumstances. A request for such a waiver has been received by MARAD. The vessel, and a brief description of the proposed service, is listed below.

DATES: Submit comments on or before October 10, 2017.

ADDRESSES: Comments should refer to docket number MARAD–2017–0164. Written comments may be submitted by hand or by mail to the Docket Clerk, U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590. You may also send comments electronically via the Internet at *http://www.regulations.gov.* All comments will become part of this docket and will be available for inspection and copying at the above address between 10:00 a.m. and 5:00 p.m., Monday through Friday, except federal holidays. An electronic version of this document and all documents entered into this docket is available at *http://www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Bianca Carr, U.S. Department of Transportation, Maritime Administration, 1200 New Jersey Avenue SE., Room W23–453, Washington, DC 20590. Telephone 202–366–9309, Email *Bianca.carr@dot.gov.*

SUPPLEMENTARY INFORMATION: As described by the applicant the intended service of the vessel NO WORRIES MATE II is:

—*Intended Commercial Use of Vessel:* ''Charter Fishing with 6 passengers or less—standard 6-pack chartering''

—*Geographic Region:* ''Florida and North Carolina''

The complete application is given in DOT docket MARAD–2017–0164 at *http://www.regulations.gov.* Interested parties may comment on the effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-

flag vessels. If MARAD determines, in accordance with 46 U.S.C. 12121 and MARAD's regulations at 46 CFR part 388, that the issuance of the waiver will have an unduly adverse effect on a U.S.-vessel builder or a business that uses U.S.-flag vessels in that business, a waiver will not be granted. Comments should refer to the docket number of this notice and the vessel name in order for MARAD to properly consider the comments. Comments should also state the commenter's interest in the waiver application, and address the waiver criteria given in § 388.4 of MARAD's regulations at 46 CFR part 388.

Privacy Act

In accordance with 5 U.S.C. 553(c), DOT/MARAD solicits comments from the public to better inform its rulemaking process. DOT/MARAD posts these comments, without edit, to *www.regulations.gov,* as described in the system of records notice, DOT/ALL–14 FDMS, accessible through *www.dot.gov/privacy.* In order to facilitate comment tracking and response, we encourage commenters to provide their name, or the name of their organization; however, submission of names is completely optional. Whether or not commenters identify themselves, all timely comments will be fully considered. If you wish to provide comments containing proprietary or confidential information, please contact the agency for alternate submission instructions.

(Authority: 49 CFR 1.93(a), 46 U.S.C. 55103, 46 U.S.C. 12121)

* * * * *

By Order of the Maritime Administrator.

Dated: August 31, 2017.

T. Mitchell Hudson, Jr.,

Secretary, Maritime Administration.

[FR Doc. 2017–18887 Filed 9–6–17; 8:45 am]

BILLING CODE 4910–81–P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

[Docket No. MARAD–2017–0157]

Requested Administrative Waiver of the Coastwise Trade Laws: Vessel TRULOU; Invitation for Public Comments

AGENCY: Maritime Administration, DOT.

ACTION: Notice.

SUMMARY: The Secretary of Transportation, as represented by the Maritime Administration (MARAD), is authorized to grant waivers of the U.S.-build requirement of the coastwise laws under certain circumstances. A request for such a waiver has been received by MARAD. The vessel, and a brief description of the proposed service, is listed below.

DATES: Submit comments on or before October 10, 2017.

ADDRESSES: Comments should refer to docket number MARAD–2017–0157. Written comments may be submitted by hand or by mail to the Docket Clerk, U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590. You may also send comments electronically via the Internet at *http://www.regulations.gov.* All comments will become part of this docket and will be available for inspection and copying at the above address between 10:00 a.m. and 5:00 p.m., Monday through Friday, except federal holidays. An electronic version of this document and all documents entered into this docket is available at *http://www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Bianca Carr, U.S. Department of Transportation, Maritime Administration, 1200 New Jersey Avenue SE., Room W23–453, Washington, DC 20590. Telephone 202–366–9309, Email *Bianca.carr@dot.gov.*

SUPPLEMENTARY INFORMATION: As described by the applicant the intended service of the vessel TRULOU is:

—*Intended Commercial Use of Vessel:* ''Passenger harbor and near coastal pleasure cruises''

—Geographic Region: ''California, Oregon & Washington''

The complete application is given in DOT docket MARAD–2017–0157 at *http://www.regulations.gov.* Interested parties may comment on the effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. If MARAD determines, in accordance with 46 U.S.C. 12121 and MARAD's regulations at 46 CFR part 388, that the issuance of the waiver will have an unduly adverse effect on a U.S.-vessel builder or a business that uses U.S.-flag vessels in that business, a waiver will not be granted. Comments should refer to the docket number of this notice and the vessel name in order for MARAD to properly consider the comments. Comments should also state the commenter's interest in the waiver application, and address the waiver criteria given in § 388.4 of MARAD's regulations at 46 CFR part 388.

Privacy Act

In accordance with 5 U.S.C. 553(c), DOT/MARAD solicits comments from the public to better inform its rulemaking process. DOT/MARAD posts these comments, without edit, to *www.regulations.gov,* as described in the system of records notice, DOT/ALL–14 FDMS, accessible through *www.dot.gov/privacy.* In order to facilitate comment tracking and response, we encourage commenters to provide their name, or the name of their organization; however, submission of names is completely optional. Whether or not commenters identify themselves, all timely comments will be fully considered. If you wish to provide comments containing proprietary or confidential information, please contact the agency for alternate submission instructions.

(Authority: 49 CFR 1.93(a), 46 U.S.C. 55103, 46 U.S.C. 12121)

* * * * *

By Order of the Maritime Administrator.

Dated: August 31, 2017.

T. Mitchell Hudson, Jr.,

Secretary, Maritime Administration.

[FR Doc. 2017–18892 Filed 9–6–17; 8:45 am]

BILLING CODE 4910–81–P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

[Docket No. MARAD–2017–0155]

Requested Administrative Waiver of the Coastwise Trade Laws: Vessel BUMBLEBEE; Invitation for Public Comments

AGENCY: Maritime Administration, Department of Transportation.

ACTION: Notice.

SUMMARY: The Secretary of Transportation, as represented by the Maritime Administration (MARAD), is authorized to grant waivers of the U.S.-build requirement of the coastwise laws under certain circumstances. A request for such a waiver has been received by MARAD. The vessel, and a brief description of the proposed service, is listed below.

DATES: Submit comments on or before October 10, 2017.

ADDRESSES: Comments should refer to docket number MARAD–2017–0155. Written comments may be submitted by hand or by mail to the Docket Clerk, U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590. You may also send comments electronically via the Internet at *http://www.regulations.gov.*

All comments will become part of this docket and will be available for inspection and copying at the above address between 10:00 a.m. and 5:00 p.m., Monday through Friday, except federal holidays. An electronic version of this document and all documents entered into this docket is available at *http://www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Bianca Carr, U.S. Department of Transportation, Maritime Administration, 1200 New Jersey Avenue SE., Room W23–453, Washington, DC 20590. Telephone 202–366–9309, Email *Bianca.carr@dot.gov.*

SUPPLEMENTARY INFORMATION: As described by the applicant the intended service of the vessel BUMBLEBEE is:

—*Intended Commercial Use of Vessel:* ''Sailboat Tours''

—*Geographic Region:* ''Washington, Oregon, California, East Florida, Georgia, South Carolina, North Carolina, Virginia, Maryland, Delaware, New Jersey, New York, Connecticut, Rhode Island, Massachusetts, New Hampshire, Maine''

The complete application is given in DOT docket MARAD–2017–0155 at *http://www.regulations.gov.* Interested parties may comment on the effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. If MARAD determines, in accordance with 46 U.S.C. 12121 and MARAD's regulations at 46 CFR part 388, that the issuance of the waiver will have an unduly adverse effect on a U.S.-vessel builder or a business that uses U.S.-flag vessels in that business, a waiver will not be granted. Comments should refer to the docket number of this notice and the vessel name in order for MARAD to properly consider the comments. Comments should also state the commenter's interest in the waiver application, and address the waiver criteria given in § 388.4 of MARAD's regulations at 46 CFR part 388.

Privacy Act

In accordance with 5 U.S.C. 553(c), DOT/MARAD solicits comments from the public to better inform its rulemaking process. DOT/MARAD posts these comments, without edit, to *www.regulations.gov,* as described in the system of records notice, DOT/ALL–14 FDMS, accessible through *www.dot.gov/privacy.* In order to facilitate comment tracking and response, we encourage commenters to provide their name, or the name of their organization; however, submission of names is completely optional. Whether or not commenters identify themselves, all timely comments will be fully considered. If you wish to provide comments containing proprietary or confidential information, please contact the agency for alternate submission instructions.

Authority: 49 CFR 1.93(a), 46 U.S.C. 55103, 46 U.S.C. 12121

* * * * *

By Order of the Maritime Administrator.

Date: August 31, 2017.

T. Mitchell Hudson, Jr.,

Secretary, Maritime Administration.

[FR Doc. 2017–18880 Filed 9–6–17; 8:45 am]

BILLING CODE 4910–81–P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

[Docket No. MARAD–2017–0166]

Requested Administrative Waiver of the Coastwise Trade Laws: Vessel LIBERTY; Invitation for Public Comments

AGENCY: Maritime Administration, Department of Transportation.

ACTION: Notice.

SUMMARY: The Secretary of Transportation, as represented by the Maritime Administration (MARAD), is authorized to grant waivers of the U.S.-build requirement of the coastwise laws under certain circumstances. A request for such a waiver has been received by MARAD. The vessel, and a brief description of the proposed service, is listed below.

DATES: Submit comments on or before October 10, 2017.

ADDRESSES: Comments should refer to docket number MARAD–2017–00166. Written comments may be submitted by hand or by mail to the Docket Clerk, U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590. You may also send comments electronically via the Internet at *http://www.regulations.gov.* All comments will become part of this docket and will be available for inspection and copying at the above address between 10:00 a.m. and 5:00 p.m., Monday through Friday, except federal holidays. An electronic version of this document and all documents entered into this docket is available at *http://www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Bianca Carr, U.S. Department of Transportation, Maritime Administration, 1200 New Jersey Avenue SE., Room W23–453, Washington, DC 20590. Telephone 202–366–9309, Email *Bianca.carr@dot.gov.*

SUPPLEMENTARY INFORMATION: As described by the applicant the intended service of the vessel LIBERTY is:

—*Intended Commercial Use of Vessel:* ''Passenger and photography vessel to support existing sailing excursion business in San Francisco''

—*Geographic Region:* ''California''

The complete application is given in DOT docket MARAD–2017–0166 at *http://www.regulations.gov.* Interested parties may comment on the effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. If MARAD determines, in accordance with 46 U.S.C. 12121 and MARAD's regulations at 46 CFR part 388, that the issuance of the waiver will have an unduly adverse effect on a U.S.-vessel builder or a business that uses U.S.-flag vessels in that business, a waiver will not be granted. Comments should refer to the docket number of this notice and the vessel name in order for MARAD to properly consider the comments. Comments should also state the commenter's interest in the waiver application, and address the waiver criteria given in § 388.4 of MARAD's regulations at 46 CFR part 388.

Privacy Act

In accordance with 5 U.S.C. 553(c), DOT/MARAD solicits comments from the public to better inform its rulemaking process. DOT/MARAD posts these comments, without edit, to *www.regulations.gov,* as described in the system of records notice, DOT/ALL–14 FDMS, accessible through *www.dot.gov/privacy.* In order to facilitate comment tracking and response, we encourage commenters to provide their name, or the name of their organization; however, submission of names is completely optional. Whether or not commenters identify themselves, all timely comments will be fully considered. If you wish to provide comments containing proprietary or confidential information, please contact the agency for alternate submission instructions.

(Authority: 49 CFR 1.93(a), 46 U.S.C. 55103, 46 U.S.C. 12121)

* * * * *

By Order of the Maritime Administrator.

Dated: August 31, 2017.

T. Mitchell Hudson, Jr.,

Secretary, Maritime Administration.

[FR Doc. 2017–18884 Filed 9–6–17; 8:45 am]

BILLING CODE 4910–81–P

DEPARTMENT OF TRANSPORTATION

Office of the Secretary of Transportation

Notice of Funding Opportunity for the Department of Transportation's National Infrastructure Investments Under the Consolidated Appropriations Act, 2017

AGENCY: Office of the Secretary of Transportation, DOT.

ACTION: Notice of funding opportunity.

SUMMARY: The Consolidated Appropriations Act, 2017 (Pub. L. 115–31, May 5, 2017) (''FY 2017 Appropriations Act'' or the ''Act'') appropriated $500 million to be awarded by the Department of Transportation (''DOT'' or the ''Department'') for National Infrastructure Investments. This appropriation stems from the program funded and implemented pursuant to the American Recovery and Reinvestment Act of 2009 (the ''Recovery Act'') known as the Transportation Investment Generating Economic Recovery, or ''TIGER Discretionary Grants,'' program. Because of the program's similarity in structure and widespread name recognition, DOT will continue to refer to the program as ''TIGER Discretionary Grants.'' Funds for the FY 2017 TIGER program (''TIGER FY 2017'') are to be awarded on a competitive basis for projects that will have a significant impact on the Nation, a metropolitan area, or a region. The purpose of this Final Notice is to solicit applications for TIGER Discretionary Grants.

DATES: Applications must be submitted by 8:00 p.m. E.D.T. on October 16, 2017.

ADDRESSES: Applications must be submitted through *Grants.gov*.

FOR FURTHER INFORMATION CONTACT: For further information concerning this notice, please contact the TIGER Discretionary Grants program staff via email at *TIGERGrants@dot.gov,* or call Howard Hill at 202–366–0301. A TDD is available for individuals who are deaf or hard of hearing at 202–366–3993. In addition, DOT will regularly post answers to questions and requests for clarifications as well as information about webinars for further guidance on DOT's Web site at *www.transportation.gov/TIGER.*

SUPPLEMENTARY INFORMATION: This notice is substantially similar to the final notice published for the TIGER Discretionary Grants program in the **Federal Register** on February 26, 2016 (81 FR 9935) for fiscal year 2016 funds. The selection criteria remain fundamentally the same as previous rounds of TIGER Discretionary Grants, but the description of each criterion was updated. The FY 2017 TIGER program will give special consideration to projects which emphasize improved access to reliable, safe, and affordable transportation for communities in rural areas, such as projects that improve infrastructure condition, address public health and safety, promote regional connectivity, or facilitate economic growth or competitiveness. For this round of TIGER Discretionary Grants, the maximum grant award is $25 million, and no more than $50 million can be awarded to a single State, as specified in the FY 2017 Appropriations Act. Each section of this notice contains information and instructions relevant to the application process for these TIGER Discretionary Grants, and all applicants should read this notice in its entirety so that they have the information they need to submit eligible and competitive applications.

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A. Program Description

The Consolidated Appropriations Act, 2017 (Pub. L. 115–31, May 5, 2017) (''FY 2017 Appropriations Act'' or the ''Act'') appropriated $500 million to be awarded by the Department of Transportation (''DOT'' or the ''Department'') for National Infrastructure Investments. Since the TIGER Discretionary Grants program was first created, $5.1 billion has been awarded for capital investments in surface transportation infrastructure over eight rounds of competitive grants. Throughout the TIGER program, TIGER Discretionary Grants awards have supported projects that have a significant impact on the Nation, a metropolitan area, or a region. This includes, but is not limited to, capital projects in areas which repair bridges or improve infrastructure to a state of good repair; projects that implement safety improvements to reduce fatalities and serious injuries, including improving grade crossings or providing shorter or more direct access to critical health services; projects that connect communities and people to jobs, services, and education; and, projects that anchor economic revitalization and job growth in communities, and specifically those that help bring manufacturing and other jobs. The TIGER program also supports projects that demonstrate significant non-Federal contributions from State, local, and private sector funding sources. The Department recognizes the benefits of shared responsibility and accountability of infrastructure investment, as it facilitates increased rigor in decision making, provides evidence of support for the project, and leverages Federal investment. Over eight rounds, on average, projects attracted more than 3.6 matching dollars for every TIGER grant dollar, representing the shared responsibility for funding infrastructure.

Rural America is home to many of the nation's most critical infrastructure assets, including 444,000 bridges, 2.98 million miles of roadway, and 30,500 miles of Interstate Highway. More than 55 percent of all public roads are locally-owned rural roads. While only 19 percent of the nation's population lives in rural areas, 51 percent of all traffic fatalities occurred on rural roads (2014). In addition, public transportation serving rural areas has more than 160 million annual boardings (2015).

B. Federal Award Information

1. Amount Available

The FY 2017 Appropriations Act appropriated $500 million to be awarded by DOT for the TIGER Discretionary Grants program. The FY 2017 TIGER Discretionary Grants are for capital investments in surface transportation infrastructure and are to be awarded on a competitive basis for projects that will have a significant impact on the Nation, a metropolitan area, or a region. The FY 2017 Appropriations Act also allows DOT to retain up to $20 million of the $500 million for oversight and administration of grants and credit assistance made under the TIGER Discretionary Grants program. If this solicitation does not result in the award and obligation of all available funds, DOT may publish additional solicitations.

The FY 2017 Appropriations Act allows up to 20 percent of available funds (or $100 million) to be used by the Department to pay the subsidy and administrative costs for a project receiving credit assistance under the Transportation Infrastructure Finance and Innovation Act of 1998 (''TIFIA'') program, if that use of the FY 2017 TIGER funds would further the purposes of the TIGER Discretionary Grants program.

2. Award Size

The FY 2017 Appropriations Act specifies that TIGER Discretionary Grants may not be less than $5 million and not greater than $25 million, except that for projects located in rural areas (as defined in Section C.3.ii.) the minimum TIGER Discretionary Grant size is $1 million.

3. Restrictions on Funding

Pursuant to the FY 2017 Appropriations Act, no more than 10 percent of the funds made available for TIGER Discretionary Grants (or $50 million) may be awarded to projects in a single State. The Act also directs that not less than 20 percent of the funds provided for TIGER Discretionary Grants (or $100 million) shall be used for projects located in rural areas. Further, DOT must take measures to ensure an equitable geographic distribution of grant funds, an appropriate balance in addressing the needs of urban and rural areas, and investment in a variety of transportation modes.

4. Availability of Funds

The FY 2017 Appropriations Act requires that FY 2017 TIGER funds are only available for obligation through September 30, 2020. Obligation occurs when a selected applicant and DOT enter into a written grant agreement and is generally after the applicant has satisfied applicable administrative requirements, including transportation planning and environmental review requirements. No FY 2017 TIGER funds may be expended (actually paid out) after September 30, 2025. As part of the review and selection process described in Section E.2., DOT will consider whether a project is ready to proceed with an obligation of grant funds from DOT within the statutory time provided. No waiver is possible for these deadlines.

5. Previous TIGER Awards

Recipients of prior TIGER Discretionary Grants may apply for funding to support additional phases of a project awarded funds in earlier rounds of this program. However, to be competitive, the applicant should demonstrate the extent to which the previously funded project phase has been able to meet estimated project schedules and budget, as well as the ability to realize the benefits expected for the project.

C. Eligibility Information

To be selected for a TIGER Discretionary Grant, an applicant must be an Eligible Applicant and the project must be an Eligible Project.

1. Eligible Applicants

Eligible Applicants for TIGER Discretionary Grants are State, local, and tribal governments, including U.S. territories, transit agencies, port authorities, metropolitan planning organizations (MPOs), and other political subdivisions of State or local governments.

Multiple States or jurisdictions may submit a joint application and must identify a lead applicant as the primary point of contact, and also identify the primary recipient of the award. Each applicant in a joint application must be an Eligible Applicant. Joint applications must include a description of the roles and responsibilities of each applicant and must be signed by each applicant.

2. Cost Sharing or Matching

This section describes the statutory cost share requirements for a TIGER award. Cost share will also be evaluated according to the evaluation criterion described in Section E.1.v. That section clarifies that the Department seeks applications for projects that exceed the minimum non-Federal cost share requirement described here.

Per the FY 2017 Appropriations Act, TIGER Discretionary Grants may be used for up to 80 percent of a project located in an urban area [1] and up to 100 percent of the costs of a project located in a rural area. Urban area and rural area are defined in Section C.3.ii of this notice.

For a project located in an urban area, the Federal share of the costs for which an expenditure is made under a TIGER grant may not exceed 80 percent. Non-Federal sources include State funds originating from programs funded by State revenue, local funds originating from State or local revenue-funded programs, or private funds. Toll credits under 23 U.S.C. 120(i) are considered a non-Federal source. Unless otherwise authorized by statute, local cost-share may not be counted as the non-Federal share for both the TIGER and another Federal grant program. The Department will not consider previously-incurred costs or previously-expended or encumbered funds towards the matching requirement for any project. Matching funds are subject to the same Federal requirements described in Section F.2. as awarded funds. Given the TIFIA statute, the Department may not be able to consider funds from TIFIA towards the matching requirement. While RRIF credit assistance will be counted towards match requirements, the Department will give greater preference to state, local, and private sources of matching funds.

3. Other

i. Eligible Projects

Eligible projects for TIGER Discretionary Grants are capital projects that include, but are not limited to: (1) Highway, bridge, or other road projects eligible under title 23, United States Code; (2) public transportation projects eligible under chapter 53 of title 49, United States Code; (3) passenger and freight rail transportation projects; (4) port infrastructure investments (including inland port infrastructure and land ports of entry); and (5) intermodal projects. This description of eligible projects is identical to the description of eligible projects under earlier rounds of the TIGER Discretionary Grants program.[2] Research, demonstration, or pilot projects are eligible only if they result in long-term, permanent surface transportation infrastructure that has independent utility as defined in Section C.3.iii. Applicants are strongly encouraged to submit applications only for eligible award amounts.

ii. Rural/Urban Definition

For purposes of this Notice, DOT defines ''rural area'' as an area outside an Urbanized Area [3] (UA) as designated by the U.S. Census Bureau. In this Notice, an ''urban area'' is defined as an area inside a UA as a designated by the U.S. Census Bureau.[4]

The Department will consider a project to be in a rural area if the majority of the project (determined by geographic location(s) where the majority of the money is to be spent) is located in a rural area. However, if a project consists of multiple components, as described under Section C.3.iii., then for each separate component the Department will determine whether that component is rural or urban. In some circumstances, this component-by-component determination may result in

[1] To meet match requirements, the minimum total project cost for a project located in an urban area must be $6.25 million.

[2] Please note that the Department may use a TIGER Discretionary Grant to pay for the surface transportation components of a broader project that has non-surface transportation components, and applicants are encouraged to apply for TIGER Discretionary Grants to pay for the surface transportation components of these projects.

[3] Updated lists of UAs as defined by the Census Bureau are available on the Census Bureau Web site at *http://www2.census.gov/geo/maps/dc10map/UAUC_RefMap/ua/*.

[4] See *www.transportation.gov/TIGER* for a list of UAs.

TIGER awards that include urban and rural funds. Rural and urban definitions differ in some other DOT programs, including TIFIA and the Nationally Significant Freight and Highway Projects Program (§ 1105; 23 U.S.C. 117).

This definition affects three aspects of the program. The FY 2017 Appropriations Act directs that (1) not less than $100 million of the funds provided for TIGER Discretionary Grants are to be used for projects in rural areas; (2) for a project in a rural area the minimum award is $1 million; and (3) the Secretary may increase the Federal share above 80 percent to pay for the costs of a project in a rural area.

iii. Project Components

An application may describe a project that contains more than one component, and may describe components that may be carried out by parties other than the applicant. DOT may award funds for a component, instead of the larger project, if that component (1) independently meets minimum award amounts described in Section B and all eligibility requirements described in Section C; (2) independently aligns well with the selection criteria specified in Section E; and (3) meets National Environmental Policy Act (NEPA) requirements with respect to independent utility. Independent utility means that the component will represent a transportation improvement that is usable and represents a reasonable expenditure of DOT funds even if no other improvements are made in the area, and will be ready for intended use upon completion of that component's construction. All project components that are presented together in a single application must demonstrate a relationship or connection between them. (See Section D.2.v. for Required Approvals).

Applicants should be aware that, depending upon the relationship between project components and applicable Federal law, DOT funding of only some project components may make other project components subject to Federal requirements as described in Section F.2.

DOT strongly encourages applicants to identify in their applications the project components that have independent utility and separately detail costs and requested TIGER funding for those components. If the application identifies one or more independent project components, the application should clearly identify how each independent component addresses selection criteria and produces benefits on its own, in addition to describing how the full proposal of which the independent component is a part addresses selection criteria.

iv. Application Limit

Each lead applicant may submit no more than three applications. Unrelated project components should not be bundled in an application for the purpose of adhering to the limit. Please note that the three-application limit applies only to applications where the applicant is the lead applicant. There is no limit on the number of applications for which an applicant can be listed as a partnering agency. If a lead applicant submits more than three applications as the lead applicant, only the first three received will be considered. The FY 2017 and 2018 Infrastructure for Rebuilding American (INFRA) Grants solicitation (82 FR 14042) and the 2017 TIGER Discretionary Grant program have independent application limits. Applicants applying to both INFRA grants and the 2017 TIGER Discretionary Grants program may apply for funding for the same project under both programs (noted in each application), but must timely submit separate applications that independently address how the project satisfies applicable selection criteria for the relevant grant program. To the extent that an application for the same project submitted to both programs contains few or no changes to a benefit-cost analysis or project readiness information, DOT may review and incorporate the previously completed analysis by Department staff into the application's evaluation when considering the project for a FY 2017 TIGER award.

D. Application and Submission Information

1. Address

Applications must be submitted to *Grants.gov*. Instructions for submitting applications can be found at *www.transportation.gov/TIGER* along with specific instructions for the forms and attachments required for submission.

2. Content and Form of Application Submission

The application must include the Standard Form 424 (Application for Federal Assistance), Standard Form 424C (Budget Information for Construction Programs), cover page, and the Project Narrative. More detailed information about the cover pages and Project Narrative follows. Applicants should also complete and attach to their application the ''TIGER 2017 Project Information'' form available at *www.transportation.gov/TIGER*.

The Department recommends that the project narrative follow the basic outline below to address the program requirements and assist evaluators in locating relevant information.

I. Project Description	See D.2.a.i.
II. Project Location	See D.2.a.ii.
III. Project Parties	See D.2.a.iii.
IV. Grant Funds, Sources and Uses of all Project Funding.	See D.2.a.iv.
V. Merit Criteria	See D.2.a.v.
VI. Project Readiness	See D.2.a.vii and E.1.c.ii.

The project narrative should include the information necessary for the Department to determine that the project satisfies project requirements described in Sections B and C and to assess the selection criteria specified in Section E.1. To the extent practicable, applicants should provide supporting data and documentation in a form that is directly verifiable by the Department. The Department may ask any applicant to supplement data in its application, but expects applications to be complete upon submission.

In addition to a detailed statement of work, detailed project schedule, and detailed project budget, the project narrative should include a table of contents, maps, and graphics, as appropriate to make the information easier to review. The Department recommends that the project narrative be prepared with standard formatting preferences (a single-spaced document, using a standard 12-point font such as Times New Roman, with 1-inch margins). The project narrative may not exceed 30 pages in length, excluding cover pages and table of contents. The only substantive portions that may exceed the 30-page limit are documents supporting assertions or conclusions made in the 30-page project narrative. If possible, Web site links to supporting documentation should be provided rather than copies of these supporting materials. If supporting documents are submitted, applicants should clearly identify within the project narrative the relevant portion of the project narrative that each supporting document supports. At the applicant's discretion, relevant materials provided previously to an operating administration in support of a different DOT financial assistance program may be referenced and described as unchanged. The Department recommends using appropriately descriptive file names (*e.g.,* ''Project Narrative,'' ''Maps,'' ''Memoranda of Understanding and

Letters of Support,'' etc.) for all attachments. DOT recommends applications include the following sections:

i. Project Description

The first section of the application should provide a concise description of the project, the transportation challenges that it is intended to address, and how it will address those challenges. This section should discuss the project's history, including a description of any previously completed components. The applicant may use this section to place the project into a broader context of other infrastructure investments being pursued by the project sponsor, and, if applicable, how it will benefit communities in rural areas.

ii. Project Location

This section of the application should describe the project location, including a detailed geographical description of the proposed project, a map of the project's location and connections to existing transportation infrastructure, and geospatial data describing the project location. If the project is located within the boundary of a Census-designated UA, the application should identify the UA.

iii. Grant Funds, Sources and Uses of Project Funds

This section of the application should describe the project's budget. This budget should not include any previously incurred expenses. At a minimum, it should include:

(A) Project costs;

(B) For all funds to be used for eligible project costs, the source and amount of those funds;

(C) For non-Federal funds to be used for eligible project costs, documentation of funding commitments should be referenced here and included as an appendix to the application;

(D) For Federal funds to be used for eligible project costs, the amount, nature, and source of any required non-Federal match for those funds;

(E) A budget showing how each source of funds will be spent. The budget should show how each funding source will share in each major construction activity, and present that data in dollars and percentages. Funding sources should be grouped into three categories: Non-Federal; TIGER; and other Federal. If the project contains individual components, the budget should separate the costs of each project component. If the project will be completed in phases, the budget should separate the costs of each phase. The budget detail should sufficiently demonstrate that the project satisfies the statutory cost-sharing requirements described in Section C.2;

In addition to the information enumerated above, this section should provide complete information on how all project funds may be used. For example, if a particular source of funds is available only after a condition is satisfied, the application should identify that condition and describe the applicant's control over whether it is satisfied. Similarly, if a particular source of funds is available for expenditure only during a fixed time period, the application should describe that restriction. Complete information about project funds will ensure that the Department's expectations for award execution align with any funding restrictions unrelated to the Department, even if an award differs from the applicant's request.

iv. Merit Criteria

This section of the application should demonstrate how the project aligns with the Merit Criteria described in Section E.1 of this Notice. The Department encourages applicants to either address each criterion or expressly state that the project does not address the criterion. Applicants are not required to follow a specific format, but the outline suggested below, which addresses each criterion separately, promotes a clear discussion that assists project evaluators. To minimize redundant information in the application, the Department encourages applicants to cross-reference from this section of their application to relevant substantive information in other sections of the application. The guidance in this section is about how the applicant should organize their application. Guidance describing how the Department will evaluate projects against the Merit Criteria is in Section E.1 of this Notice. Applicants also should review that section before considering how to organize their application.

(1) Primary Selection Criteria

(a) Safety

This section of the application should describe the anticipated outcomes of the project that support the Safety criterion (described in Section E.1.i. of this Notice). The applicant should include information on, and to the extent possible, quantify, how the project would improve safety outcomes within the project area or wider transportation network, to include how the project will reduce the number, rate, and consequences of transportation-related accidents, serious injuries, and fatalities among transportation users, or how the project will eliminate unsafe grade crossings or contribute to preventing unintended releases of hazardous materials.

(b) State of Good Repair

This section of the application should describe how the project will contribute to a state of good repair by improving the condition or resilience of existing transportation facilities and system (described in Section E.1.i. of this Notice), including the project's current condition and how the proposed project will improve it, and any estimation of impacts on long-term cost structures or impacts on overall life-cycle costs.

(c) Economic Competitiveness

This section of the application should describe how the project will support the Economic Competitiveness criterion (described in Section E.1.i. of this Notice). The applicant should include information about expected impacts of the project on the movement of goods and people, including how the project increases the efficiency of movement and thereby reduces costs of doing business, reduces burdens of commuting, and improves overall well-being. The applicant should describe the extent to which the project contributes to the functioning and growth of the economy, including the extent to which the project addresses congestion, bridges service gaps in rural areas, or attracts private economic development.

(d) Environmental Sustainability

This section of the application should describe how the project addressed the environmental sustainability criterion. Applicants are encouraged to provide quantitative information, including baseline information that demonstrates how the project will reduce energy consumption, stormwater runoff, or achieve other benefits for the environment such as brownfield redevelopment.

(e) Quality of Life

This section should describe how the project increases transportation choices for individuals to provide more freedom on transportation decisions and improves access to essential services for people in communities across the United States, particularly for rural communities.

(2) Secondary Selection Criteria

(a) Innovation

This section of the application should describe innovative strategies used to pursue primary selection criteria and the anticipated benefits of using those strategies. If an applicant is proposing to adopt innovative safety approaches or technology, the application should demonstrate the applicant's capacity to implement those innovations, the applicant's understanding of whether the innovations will require extraordinary permitting, approvals, or other procedural actions, and the effects of those innovations on the project delivery timeline. If an applicant plans to incorporate innovative funding or financing, the applicant should describe the funding or financing approach, including a description of all activities undertaken to pursue private funding or financing for the project and the outcomes of those activities.

(b) Partnership

This section of the application should list all project parties, including details about the proposed grant recipient and other public and private parties who are involved in delivering the project. This section should also describe efforts to collaborate among stakeholders, including with the private sector.

v. Project Readiness

This section of the application should include information that, when considered with the project budget information presented elsewhere in the application, is sufficient for the Department to evaluate whether the project is reasonably expected to begin construction in a timely manner. To assist the Department's project readiness assessment, the applicant should provide the information requested on technical feasibility, project schedule, project approvals, and project risks, each of which is described in greater detail in the following sections. Applicants are not required to follow the specific format described here, but this organization, which addresses each relevant aspect of project readiness, promotes a clear discussion that assists project evaluators. To minimize redundant information in the application, the Department encourages applicants to cross-reference from this section of their application to relevant substantive information in other sections of the application.

The guidance here is about what information applicants should provide and how the applicant should organize their application. Guidance describing how the Department will evaluate a project's readiness is described in Section E.1 of this Notice. Applicants also should review that section when considering how to organize their application.

(A) Technical Feasibility. The applicant should demonstrate the technical feasibility of the project with engineering and design studies and activities; the development of design criteria and/or a basis of design; the basis for the cost estimate presented in the TIGER application, including the identification of contingency levels appropriate to its level of design; and any scope, schedule, and budget risk-mitigation measures. Applicants should include a detailed statement of work that focuses on the technical and engineering aspects of the project and describes in detail the project to be constructed.

(B) Project Schedule. The applicant should include a detailed project schedule that identifies all major project milestones. Examples of such milestones include State and local planning approvals (programming on the Statewide Transportation Improvement Program), start and completion of NEPA and other Federal environmental reviews and approvals including permitting; design completion; right of way acquisition; approval of plans, specifications and estimates; procurement; State and local approvals; project partnership and implementation agreements including agreements with railroads; and construction. The project schedule should be sufficiently detailed to demonstrate that:

(1) All necessary activities will be complete to allow TIGER funds to be obligated sufficiently in advance of the statutory deadline (September 30, 2020 for FY 2017 funds), and that any unexpected delays will not put the funds at risk of expiring before they are obligated;

(2) the project can begin construction quickly upon obligation of TIGER funds, and that the grant funds will be spent expeditiously once construction starts; and

(3) all real property and right-of-way acquisition will be completed in a timely manner in accordance with 49 CFR part 24, 23 CFR part 710, and other applicable legal requirements or a statement that no acquisition is necessary.

(C) Required Approvals.

(1) Environmental Permits and Reviews. The application should demonstrate receipt (or reasonably anticipated receipt) of all environmental approvals and permits necessary for the project to proceed to construction on the timeline specified in the project schedule and necessary to meet the statutory obligation deadline, including satisfaction of all Federal, State and local requirements and completion of the NEPA process. Specifically, the application should include:

(a) Information about the NEPA status of the project. If the NEPA process is complete, an applicant should indicate the date of completion, and provide a Web site link or other reference to the final Categorical Exclusion, Finding of No Significant Impact, Record of Decision, and any other NEPA documents prepared. If the NEPA process is underway, but not complete, the application should detail the type of NEPA review underway, where the project is in the process, and indicate the anticipated date of completion of all milestones and of the final NEPA determination. If the last agency action with respect to NEPA documents occurred more than three years before the application date, the applicant should describe why the project has been delayed and include a proposed approach for verifying and, if necessary, updating this material in accordance with applicable NEPA requirements.

(b) Information on reviews, approvals, and permits by other agencies. An application should indicate whether the proposed project requires reviews or approval actions by other agencies,[5] indicate the status of such actions, and provide detailed information about the status of those reviews or approvals and should demonstrate compliance with any other applicable Federal, State, or local requirements, and when such approvals are expected. Applicants should provide a Web site link or other reference to copies of any reviews, approvals, and permits prepared.

(c) Environmental studies or other documents, preferably through a Web site link, that describe in detail known project impacts, and possible mitigation for those impacts.

(d) A description of discussions with the appropriate DOT operating administration field or headquarters office regarding the project's compliance with NEPA and other applicable Federal environmental reviews and approvals.

(e) A description of public engagement about the project that has occurred, including details on the degree to which public comments and commitments have been integrated into project development and design.

[5] Projects that may impact protected resources such as wetlands, species habitat, cultural or historic resources require review and approval by Federal and State agencies with jurisdiction over those resources.

(2) State and Local Approvals. The applicant should demonstrate receipt of State and local approvals on which the project depends, such as State and local environmental and planning approvals and Statewide Transportation Improvement Program (STIP) or (Transportation Improvement Program) TIP funding. Additional support from relevant State and local officials is not required; however, an applicant should demonstrate that the project has broad public support.

(3) Federal Transportation Requirements Affecting State and Local Planning. The planning requirements applicable to the Federal-aid highway program apply to all TIGER projects, but for port, freight, and rail projects planning requirements of the operating administration that will administer the TIGER project will also apply,[6] including intermodal projects located at airport facilities.[7] Applicants should demonstrate that a project that is required to be included in the relevant State, metropolitan, and local planning documents has been or will be included in such documents. If the project is not included in a relevant planning document at the time the application is submitted, the applicant should submit a statement from the appropriate planning agency that actions are underway to include the project in the relevant planning document.

To the extent possible, freight projects should be included in a State Freight Plan and supported by a State Freight Advisory Committee (49 U.S.C. 70201, 70202), if these exist. Applicants should provide links or other documentation supporting this consideration.

Because projects have different schedules, the construction start date for each TIGER grant must be specified in the project-specific agreements signed by relevant operating administration and the grant recipients, based on critical path items that applicants identify in the application and will be consistent with relevant State and local plans.

(D) Assessment of Project Risks and Mitigation Strategies. Project risks, such as procurement delays, environmental uncertainties, increases in real estate acquisition costs, uncommitted local match, or lack of legislative approval, affect the likelihood of successful project start and completion. The applicant should identify all material risks to the project and the strategies that the lead applicant and any project partners have undertaken or will undertake in order to mitigate those risks. The applicant should assess the greatest risks to the project and identify how the project parties will mitigate those risks.

To the extent it is unfamiliar with the Federal program, the applicant should contact the appropriate DOT operating administration field or headquarters offices, as found in contact information at *www.transportation.gov/TIGERgrants,* for information on the pre-requisite steps to obligate Federal funds in order to ensure that their project schedule is reasonable and that there are no risks of delays in satisfying Federal requirements.

vi. Benefit Cost Analysis

This section describes the recommended approach for the completion and submission of a benefit-cost analysis (BCA) as an appendix to the Project Narrative. The results of the analysis should be summarized in the Project Narrative directly, as described in Section D.2.

Applicants should delineate each of their project's expected outcomes in the form of a complete BCA to enable the Department to evaluate the project's cost-effectiveness by estimating a benefit-cost ratio and calculating the magnitude of net benefits and costs for the project. In support of each project for which an applicant seeks funding, that applicant should submit a BCA that quantifies the expected benefits of the project against a no-build baseline, provides monetary estimates of the benefits' economic value, and compares the properly-discounted present values of these benefits to the project's estimated costs.

The primary economic benefits from projects eligible for TIGER grants are likely to include savings in travel time costs, vehicle operating costs, and safety costs for both existing users of the improved facility and new users who may be attracted to it as a result of the project. Reduced damages from vehicle emissions and savings in maintenance costs to public agencies may also be quantified. Applicants may describe other categories of benefits in the BCA that are more difficult to quantify and value in economic terms, such as improving the reliability of travel times or improvements to the existing human and natural environments (such as increased connectivity, improved public health, storm water runoff mitigation, and noise reduction), while also providing numerical estimates of the magnitude and timing of each of these additional impacts wherever possible. Any benefits claimed for the project, both quantified and unquantified, should be clearly tied to the expected outcomes of the project.

The BCA should include the full costs of developing, constructing, operating, and maintaining the proposed project, as well as the expected timing or schedule for costs in each of these categories. The BCA may also consider the present discounted value of any remaining service life of the asset at the end of the analysis period (net of future maintenance and rehabilitation costs) as a deduction from the estimated costs. The costs and benefits that are compared in the BCA should also cover the same project scope.

The BCA should carefully document the assumptions and methodology used to produce the analysis, including a description of the baseline, the sources of data used to project the outcomes of the project, and the values of key input parameters. Applicants should provide all relevant files used for their BCA, including any spreadsheet files and technical memos describing the analysis (whether created in-house or by a contractor). The spreadsheets and technical memos should present the calculations in sufficient detail and transparency to allow the analysis to be reproduced by DOT evaluators. Detailed

[6] Under 23 U.S.C. 134 and 135, all projects requiring an action by FHWA must be in the applicable plan and programming documents (*e.g.,* metropolitan transportation plan, transportation improvement program (TIP) and statewide transportation improvement program (STIP)). Further, in air quality non-attainment and maintenance areas, all regionally significant projects, regardless of the funding source, must be included in the conforming metropolitan transportation plan and TIP. Inclusion in the STIP is required under certain circumstances. To the extent a project is required to be on a metropolitan transportation plan, TIP, and/or STIP, it will not receive a TIGER grant until it is included in such plans. Projects not currently included in these plans can be amended by the State and MPO. Projects that are not required to be in long range transportation plans, STIPs, and TIPs will not need to be included in such plans in order to receive a TIGER grant. Port, freight rail, and intermodal projects are not required to be on the State Rail Plans called for in the Passenger Rail Investment and Improvement Act of 2008, or in a State Freight Plan as described in the FAST Act. However, applicants seeking funding for freight projects are encouraged to demonstrate that they have done sufficient planning to ensure that projects fit into a prioritized list of capital needs and are consistent with long-range goals. Means of demonstrating this consistency would include whether the project is in a TIP or a State Freight Plan that conforms to the requirements Section 70202 of Title 49 prior to the start of construction. Port planning guidelines are available at *StrongPorts.gov.*

[7] Projects at grant obligated airports must be compatible with the FAA-approved Airport Layout Plan, as well as aeronautical surfaces associated with the landing and takeoff of aircraft at the airport. Additionally, projects at an airport: Must comply with established Sponsor Grant Assurances, including (but not limited to) requirements for non-exclusive use facilities, consultation with users, consistency with local plans including development of the area surrounding the airport, and consideration of the interest of nearby communities, among others; and must not adversely affect the continued and unhindered access of passengers to the terminal.

guidance for estimating some types of quantitative benefits and costs, together with recommended economic values for converting them to dollar terms and discounting to their present values, are available in the Department's guidance for conducting BCAs for projects seeking funding under the TIGER program (see *https://www.transportation.gov/buildamerica/TIGERgrants*).

vii. Cost Share

The applicant should describe the extent to which the project cannot be readily and efficiently completed without a TIGER Discretionary Grant, and describe the extent to which other sources of funds, including Federal, State, or local funding, may or may not be readily available for the project. This section of the application should include information that, when considered with the project budget information presented elsewhere in the application, is sufficient for the Department to evaluate how the project addresses the Cost Share criterion, including:

(A) A description of the applicant's activities to maximize the non-Federal share of the project funding;

(B) a description of any fiscal constraints that affect the applicant's ability to use non-Federal contributions;

(C) a description of the non-Federal share across the applicant's transportation program, if the applicant is a regular recipient of federal transportation funding; and

(D) a description of the applicant's plan to address the full life-cycle costs associated with the project, including a description of operations and maintenance funding commitments made by the applicant.

viii. Federal Wage Rate Certification (a Certification, Signed by the Applicant(s), Stating That It Will Comply With the Requirements of Subchapter IV of Chapter 31 of Title 40, United States Code [Federal Wage Rate Requirements], as Required by the FY 2017 Appropriations Act)

The purpose of this recommended format is to ensure that applications clearly address the program requirements and make critical information readily apparent.

DOT recommends that the project narrative be prepared with standard formatting preferences (*i.e.,* a single-spaced document, using a standard 12-point font, such as Times New Roman, with 1-inch margins). The project narrative may not exceed 30 pages in length. Documentation supporting the assertions made in the narrative portion may also be provided, but should be limited to relevant information. Cover pages, tables of contents, and the federal wage rate certification do not count towards the 30-page limit for the narrative portion of the application. The only substantive portions of the application that may exceed the 30-page limit are any supporting documents (including a more detailed discussion of the benefit-cost analysis) provided to support assertions or conclusions made in the 30-page narrative section. If possible, Web site links to supporting documentation (including a more detailed discussion of the benefit-cost analysis) should be provided rather than copies of these materials. Otherwise, supporting documents should be included as appendices to the application. Applicants' references to supporting documentation should clearly identify the relevant portion of the supporting material. At the applicant's discretion, relevant materials provided previously to a relevant modal administration in support of a different DOT discretionary financial assistance program (for example, New Starts or TIFIA) may be referenced and described as unchanged. This information need not be resubmitted for the TIGER Discretionary Grant application but may be referenced as described above; Web site links to the materials are highly recommended. DOT recommends using appropriately descriptive file names (*e.g.,* ''Project Narrative,'' ''Maps,'' ''Memoranda of Understanding and Letters of Support,'' etc.) for all attachments.

3. Unique Entity Identifier and System for Award Management (SAM)

Each applicant must: (1) Be registered in SAM before submitting its application; (2) provide a valid unique entity identifier in its application; and (3) continue to maintain an active SAM registration with current information at all times during which it has an active Federal award or an application or plan under consideration by a Federal awarding agency. The Department may not make a TIGER grant to an applicant until the applicant has complied with all applicable unique entity identifier and SAM requirements and, if an applicant has not fully complied with the requirements by the time the Department is ready to make a TIGER grant, the Department may determine that the applicant is not qualified to receive a TIGER grant and use that determination as a basis for making a TIGER grant to another applicant.

4. Submission Dates and Times

i. Deadline

Applications must be submitted by 8:00 p.m. EDT on October 16, 2017. The *Grants.gov* ''Apply'' function will open by September 7, 2017. The Department has determined that an application deadline fewer than 60 days after this notice is published is appropriate because this notice is substantially similar to previous years.

To submit an application through *Grants.gov*, applicants must:

(1) Obtain a Data Universal Numbering System (DUNS) number;

(2) Register with the System for Award Management (SAM) at *www.SAM.gov;*

(3) Create a *Grants.gov* username and password; and

(4) The E-Business Point of Contact (POC) at the applicant's organization must respond to the registration email from *Grants.gov* and login at *Grants.gov* to authorize the applicant as the Authorized Organization Representative (AOR). Please note that there can be more than one AOR for an organization.

Please note that the *Grants.gov* registration process usually takes 2–4 weeks to complete and that the Department will not consider late applications that are the result of failure to register or comply with *Grants.gov* applicant requirements in a timely manner. For information and instruction on each of these processes, please see instructions at *http://www.grants.gov/web/grants/applicants/applicant-faqs.html.* If applicants experience difficulties at any point during the registration or application process, please call the *Grants.gov* Customer Service Support Hotline at 1(800) 518–4726, Monday-Friday from 7:00 a.m. to 9:00 p.m. EST.

ii. Consideration of Applications

Only applicants who comply with all submission deadlines described in this notice and electronically submit valid applications through *Grants.gov* will be eligible for award. Applicants are strongly encouraged to make submissions in advance of the deadline.

iii. Late Applications

Applicants experiencing technical issues with *Grants.gov* that are beyond the applicant's control must contact *TIGERgrants@dot.gov* prior to the application deadline with the user name of the registrant and details of the technical issue experienced. The applicant must provide:

(1) Details of the technical issue experienced;

(2) Screen capture(s) of the technical issues experienced along with corresponding *Grants.gov* ''Grant tracking number'';

(3) The ''Legal Business Name'' for the applicant that was provided in the SF–424;

(4) The AOR name submitted in the SF–424;

(5) The DUNS number associated with the application; and

(6) The *Grants.gov* Help Desk Tracking Number.

To ensure a fair competition of limited discretionary funds, the following conditions are not valid reasons to permit late submissions: (1) Failure to complete the registration process before the deadline; (2) failure to follow *Grants.gov* instructions on how to register and apply as posted on its Web site; (3) failure to follow all instructions in this Notice of funding opportunity; and (4) technical issues experienced with the applicant's computer or information technology environment. After the Department reviews all information submitted and contact the *Grants.gov* Help Desk to validate reported technical issues, DOT staff will contact late applicants to approve or deny a request to submit a late application through *Grants.gov*. If the reported technical issues cannot be validated, late applications will be rejected as untimely.

E. Application Review Information

1. Criteria

This section specifies the criteria that DOT will use to evaluate and award applications for TIGER Discretionary Grants. The criteria incorporate the statutory eligibility requirements for this program, which are specified in this notice as relevant. There are two categories of selection criteria, ''Primary Selection Criteria'' and ''Secondary Selection Criteria.'' Projects will also be evaluated for demonstrated project readiness, benefits and costs, and cost share.

i. Primary Selection Criteria

Applications that do not demonstrate a likelihood of significant long-term benefits based on these criteria will not proceed in the evaluation process. DOT does not consider any primary selection criterion more important than the others. The primary selection criteria, which will receive equal consideration, are:

a. Safety

The Department will assess the project's ability to foster a safe transportation system for the movement of goods and people. The Department will consider the projected impacts on the number, rate, and consequences of crashes, fatalities and injuries among transportation users; the project's contribution to the elimination of highway/rail grade crossings, or the project's contribution to preventing unintended releases of hazardous materials.

b. State of Good Repair

The Department will assess whether and to what extent: (1) The project is consistent with relevant plans to maintain transportation facilities or systems in a state of good repair and address current and projected vulnerabilities; (2) if left unimproved, the poor condition of the asset will threaten future transportation network efficiency, mobility of goods or accessibility and mobility of people, or economic growth; (3) the project is appropriately capitalized up front and uses asset management approaches that optimize its long-term cost structure; (4) a sustainable source of revenue is available for operations and maintenance of the project and the project will reduce overall life-cycle costs; and (5) the project includes a plan to maintain the infrastructure in a state of good repair. The Department will prioritize projects that ensure the good condition of infrastructure, including rural infrastructure, that support commerce and economic growth.

c. Economic Competitiveness

The Department will assess whether the project will (1) decrease transportation costs and improve access, especially for rural communities, through reliable and timely access to employment centers and job opportunities; (2) improve long-term efficiency, reliability or costs in the movement of workers or goods; (3) increase the economic productivity of land, capital, or labor; (4) result in long-term job creation and other economic opportunities; or (5) help the United States compete in a global economy by facilitating efficient and reliable freight movement.

Projects that address congestion in major urban areas, particularly those that do so through the use of congestion pricing or the deployment of advanced technology, projects that bridge gaps in service in rural areas, and projects that attract private economic development, all support national or regional economic competitiveness. Projects that incorporate private sector contributions, including through a public-private partnership structure, are likely to be more competitive that those that rely solely on public non-Federal funding.

d. Environmental Sustainability

The Department will consider the extent to which the project improves energy efficiency, reduces dependence on oil, reduces congestion-related emissions, improves water quality, avoids and mitigates environmental impacts and otherwise benefits the environment, including through alternative right of way uses demonstrating innovative ways to improve or streamline environmental reviews while maintaining the same outcomes. The Department will assess the project's ability to: (i) Reduce energy use and air or water pollution through congestion mitigation strategies; (ii) avoid adverse environmental impacts to air or water quality, wetlands, and endangered species; or (iii) provide environmental benefits, such as brownfield redevelopment, ground water recharge in areas of water scarcity, wetlands creation or improved habitat connectivity, and stormwater mitigation.

e. Quality of Life

The Department will consider the extent to which the project increases transportation choices for individuals to provide more freedom on transportation decisions and improves access to essential services for people in communities across the United States, particularly for rural communities. The Department will consider the extent to which the project improves connectivity for citizens to jobs, health care, and other critical destinations.

ii. Secondary Selection Criteria

a. Innovation

The Department will assess the use of innovative strategies to address the primary selection criteria. The Department particularly seeks to experiment with innovative approaches to transportation safety, particularly in relation to automated vehicles and the detection, mitigation, and documentation of safety risks. When making TIGER award decisions, the Department will consider any innovative safety approaches proposed by the applicant, particularly projects which incorporate innovative design solutions, enhance the environment for automated vehicles, or use technology to improve the detection, mitigation, and documentation of safety risks. Innovative safety approaches may include, but are not limited to:

- Conflict detection and mitigation technologies (*e.g.,* intersection alerts and signal prioritization);

• Dynamic signaling or pricing systems to reduce congestion;
• Signage and design features that facilitate autonomous or semi-autonomous vehicle technologies;
• Applications to automatically capture and report safety-related issues (*e.g.,* identifying and documenting near-miss incidents); and
• Cybersecurity elements to protect safety-critical systems.

For innovative safety proposals, the Department will evaluate safety benefits that those approaches could produce and the broader applicability of the potential results.

DOT will also assess the extent to which the project uses innovative technology to significantly enhance the operational performance of the transportation system. Further, DOT will consider the extent to which the project utilizes innovative practices in contracting, congestion management, asset management, or long-term operations and maintenance. DOT is interested in projects that apply innovative strategies to improve the efficiency of project development or to improve project delivery, including by using FHWA's Special Experimental Project No. 14 (SEP–14) and Special Experimental Project No. 15 (SEP–15).

DOT will also assess the extent to which the project incorporates innovations in transportation funding and finance and leverages both existing and new sources of funding or financing through both traditional and innovative means, including by using private sector funding or financing and recycled revenue from the competitive sale or lease of publicly owned or operated assets.

b. Partnership

The Department will consider the extent to which projects demonstrate strong collaboration among a broad range of stakeholders. Projects with strong partnership typically involve multiple partners in project development and funding, such as State and local governments, other public entities, and/or private or nonprofit entities. DOT will also assess the extent to which the project application demonstrates collaboration among neighboring or regional jurisdictions, including neighboring rural areas, to achieve national, regional, or metropolitan benefits. In the context of public-private partnerships, DOT will assess the extent to which partners are encouraged to ensure long-term asset performance, such as through pay-for-success approaches.

DOT will also consider the extent to which projects include partnerships that bring together diverse transportation agencies and/or are supported, financially or otherwise, by other stakeholders that are pursuing similar objectives. For example, DOT will consider the extent to which transportation projects are coordinated with economic development, housing, water infrastructure, and land use plans and policies or other public service efforts.

iii. Demonstrated Project Readiness

During application evaluation, the Department considers project readiness to assess the likelihood of successful project. The Department will consider significant risks to successful completion of a project, including risks associated with environmental review, permitting, technical feasibility, funding, and the applicant's capacity to manage project delivery. Risks do not disqualify projects from award, but competitive applications clearly and directly describe achievable risk mitigation strategies. A project with mitigated risks or with a risk mitigation plan is more competitive than a comparable project with unaddressed risks.

iv. Project Costs and Benefits

The Department will consider the project's costs and benefits. To the extent possible, the Department will rely on quantitative, data-supported analysis to assess how well a project addresses this criterion, including an assessment of the project's estimated benefit-cost ratio and net quantifiable benefits based on the applicant-supplied BCA described in Section D.2.vi.

v. Cost Sharing or Matching

The Department seeks applications for projects that exceed the minimum non-Federal cost share requirement described in Section C.2. Additionally, the FY 2017 Appropriations Act directs the Department to prioritize projects that require a contribution of Federal funds to complete an overall financing package, and all projects can increase their competitiveness for purposes of the TIGER program by demonstrating significant non-Federal financial contributions. TIGER applications that include INFRA Grants program funding as part of a proposed financing package will be less competitive than those that do not.

DOT recognizes that applicants have varying abilities and resources to contribute non-Federal contributions, especially those communities that are not routinely receiving and matching Federal funds. DOT recognizes certain communities with fewer financial resources may struggle to provide cost-share that exceeds the minimum requirements and will, therefore, consider an applicant's broader fiscal constraints when evaluating non-Federal contributions.

This evaluation criterion is separate from the statutory cost share requirements for TIGER grants, which are described Section C.2. Those statutory requirements establish the minimum permissible non-Federal share; they do not define a competitive TIGER project.

vi. Additional Considerations

The FY 2017 Appropriations Act requires the Department to consider contributions to geographic diversity among recipients, including the need for a balance between the needs of rural and urban communities when selecting TIGER projects.

2. Review and Selection Process

DOT reviews all eligible applications received before the deadline. The TIGER review and selection process consists of three phases: Technical Review, Tier Two Analysis consisting of project readiness and economic analysis, and Senior Review. A Control and Calibration Team ensures consistency across projects and appropriate documentation throughout the review and selection process. In the Technical Evaluation phase, teams comprising staff from the Office of the Secretary (OST) and modal administrations review all eligible applications and rate projects as Highly Recommended, Recommended, Acceptable, or Not Recommended based on how well the projects align with the selection criteria.

Tier 2 Analysis consists of (1) an Economic Analysis and (2) a Project Readiness Analysis. The Economic Analysis Team, comprising OST and modal administration economic staff, assess the potential benefits and costs of the proposed projects. The Project Readiness Team, comprising Office of the Secretary Office of Policy (OST–P) and modal administration staff, evaluates the proposed project's technical and financial feasibility, potential risks and mitigation strategies, and project schedule, including the status of environmental approvals and readiness to proceed.

In the third review phase, the Senior Review Team, which includes senior leadership from OST and the modal administrations, considers all projects that were rated Acceptable, Recommended, or Highly Recommended and determines which projects to advance to the Secretary as Highly Rated. The Secretary selects from

the Highly Rated projects for final awards.

3. Additional Information

Prior to award, each selected applicant will be subject to a risk assessment as required by 2 CFR 200.205. The Department must review and consider any information about the applicant that is in the designated integrity and performance system accessible through SAM (currently the Federal Awardee Performance and Integrity Information System (FAPIIS)). An applicant may review information in FAPIIS and comment on any information about itself. The Department will consider comments by the applicant, in addition to the other information in FAPIIS, in making a judgment about the applicant's integrity, business ethics, and record of performance under Federal awards when completing the review of risk posed by applicants.

F. Federal Award Administration Information

1. Federal Award Notice

Following the evaluation outlined in Section E, the Secretary will announce awarded projects by posting a list of selected projects at *www.transportation.gov/TIGER.* Notice of selection is not authorization to begin performance. Following that announcement, the relevant modal administration will contact the point of contact listed in the SF 424 to initiate negotiation of the grant agreement for authorization.

2. Administrative and National Policy Requirements

All awards will be administered pursuant to the Uniform Administrative Requirements, Cost Principles and Audit Requirements for Federal Awards found in 2 CFR part 200, as adopted by DOT at 2 CFR part 1201. Additionally, applicable Federal laws, rules and regulations of the relevant operating administration administering the project will apply to the projects that receive TIGER Discretionary Grants awards, including planning requirements, Service Outcome Agreements, Stakeholder Agreements, Buy America compliance, and other requirements under DOT's other highway, transit, rail, and port grant programs.

For projects administered by FHWA, applicable Federal laws, rules, and regulations set forth in Title 23 U.S.C. and Title 23 CFR apply. For an illustrative list of the applicable laws, rules, regulations, executive orders, polices, guidelines, and requirements as they relate to a TIGER project administered by the FHWA, please see *http://www.ops.fhwa.dot.gov/freight/infrastructureinfrastructure/tiger/fy2015_gr_exhbt/index.htm.* For TIGER projects administered by the Federal Transit Administration and partially funded with Federal transit assistance, all relevant requirements under chapter 53 of title 49 U.S.C. apply. For transit projects funded exclusively with TIGER Discretionary Grants funds, some requirements of chapter 53 of title 49 U.S.C. and chapter VI of title 49 CFR apply. For projects administered by the Federal Railroad Administration, FRA requirements described in 49 U.S.C. Subtitle V, part C apply.

Federal wage rate requirements included in subchapter IV of chapter 31 of title 40, U.S.C., apply to all projects receiving funds under this program, and apply to all parts of the project, whether funded with TIGER Discretionary Grant funds, other Federal funds, or non-Federal funds.

3. Reporting

i. Progress Reporting on Grant Activities

Each applicant selected for TIGER Discretionary Grants funding must submit quarterly progress reports and Federal Financial Reports (SF–425) to monitor project progress and ensure accountability and financial transparency in the TIGER program.

ii. System Performance Reporting

Each applicant selected for TIGER Discretionary Grant funding must collect information and report on the project's observed performance with respect to the relevant long-term outcomes that are expected to be achieved through construction of the project. Performance indicators will not include formal goals or targets, but will include observed measures under baseline (pre-project) as well as post-implementation outcomes for an agreed-upon timeline, and will be used to evaluate and compare projects and monitor the results that grant funds achieve to the intended long-term outcomes of the TIGER Discretionary Grants program are achieved. To the extent possible, performance indicators used in the reporting should align with the measures included in the application and should relate to at least one of the primary selection criteria defined in Section E. Performance reporting continues for several years after project construction is completed, and DOT does not provide TIGER Discretionary Grant funding specifically for performance reporting.

iii. Reporting of Matters Related to Recipient Integrity and Performance

If the total value of a selected applicant's currently active grants, cooperative agreements, and procurement contracts from all Federal awarding agencies exceeds $10,000,000 for any period of time during the period of performance of this Federal award, then the applicant during that period of time must maintain the currency of information reported to the SAM that is made available in the designated integrity and performance system (currently FAPIIS) about civil, criminal, or administrative proceedings described in paragraph 2 of this award term and condition. This is a statutory requirement under section 872 of Public Law 110–417, as amended (41 U.S.C. 2313). As required by section 3010 of Public Law 111–212, all information posted in the designated integrity and performance system on or after April 15, 2011, except past performance reviews required for Federal procurement contracts, will be publicly available.

G. Federal Awarding Agency Contacts

For further information concerning this notice please contact the TIGER Discretionary Grants program staff via email at *TIGERGrants@dot.gov,* or call Howard Hill at 202–366–0301. A TDD is available for individuals who are deaf or hard of hearing at 202–366–3993. In addition, DOT will post answers to questions and requests for clarifications on DOT's Web site at *www.transportation.gov/TIGER.* To ensure applicants receive accurate information about eligibility or the program, the applicant is encouraged to contact DOT directly, rather than through intermediaries or third parties, with questions. DOT staff may also conduct briefings on the TIGER Discretionary Grants selection and award process upon request.

H. Other information

1. Protection of Confidential Business Information

All information submitted as part of or in support of any application shall use publicly available data or data that can be made public and methodologies that are accepted by industry practice and standards, to the extent possible. If the application includes information the applicant considers to be a trade secret or confidential commercial or financial information, the applicant should do the following: (1) Note on the front cover that the submission ''Contains Confidential Business Information (CBI)''; (2) mark each affected page ''CBI''; and (3) highlight or otherwise

denote the CBI portions. DOT protects such information from disclosure to the extent allowed under applicable law. In the event DOT receives a Freedom of Information Act (FOIA) request for the information, DOT will follow the procedures described in its FOIA regulations at 49 CFR 7.17. Only information that is ultimately determined to be confidential under that procedure will be exempt from disclosure under FOIA.

Elaine L. Chao,

Secretary.

[FR Doc. 2017–19009 Filed 9–6–17; 8:45 am]

BILLING CODE P

DEPARTMENT OF THE TREASURY

United States Mint

Notification of Citizens Coinage Advisory Committee September 19, 2017, Public Meeting

ACTION: Notification of Citizens Coinage Advisory Committee September 19, 2017, public meeting.

SUMMARY: Pursuant to United States Code, Title 31, section 5135(b)(8)(C), the United States Mint announces the Citizens Coinage Advisory Committee (CCAC) public meeting scheduled for September 19, 2017.

Date: September 19, 2017.

Time: 10:00 a.m. to 3:00 p.m.

Location: Second Floor Conference Room, United States Mint, 801 9th Street NW., Washington, DC 20220.

Subject: Review and discussion of candidate designs for the 2019 America the Beautiful Quarters Program, review and discussion of new and revised candidate designs for the Office of Strategic Services Congressional Gold Medal, and review and approval of annual reports.

Interested members of the public may either attend the meeting in person or dial in to listen to the meeting at (866) 564–9287/Access Code: 62956028.

Interested persons should call the CCAC HOTLINE at (202) 354–7502 for the latest update on meeting time and room location.

Any member of the public interested in submitting matters for the CCAC's consideration is invited to submit them by fax to the following number: 202–756–6525.

In accordance with 31 U.S.C. 5135, the CCAC:

- Advises the Secretary of the Treasury on any theme or design proposals relating to circulating coinage, bullion coinage, Congressional Gold Medals, and national and other medals.
- Advises the Secretary of the Treasury with regard to the events, persons, or places to be commemorated by the issuance of commemorative coins in each of the five calendar years succeeding the year in which a commemorative coin designation is made.
- Makes recommendations with respect to the mintage level for any commemorative coin recommended.

Members of the public interested in attending the meeting in person will be admitted into the meeting room on a first-come, first-serve basis as space is limited. Conference Room A&B can accommodate up to 50 members of the public at any one time. In addition, all persons entering a United States Mint facility must adhere to building security protocol. This means they must consent to the search of their persons and objects in their possession while on government grounds and when they enter and leave the facility, and are prohibited from bringing into the facility weapons of any type, illegal drugs, drug paraphernalia, or contraband.

The United States Mint Police Officer conducting the screening will evaluate whether an item may enter into or exit from a facility based upon federal law, Treasury policy, United States Mint Policy, and local operating procedure; and all prohibited and unauthorized items will be subject to confiscation and disposal.

FOR FURTHER INFORMATION CONTACT: Betty Birdsong, Acting United States Mint Liaison to the CCAC; 801 9th Street NW., Washington, DC 20220; or call 202–354–7200.

Authority: 31 U.S.C. 5135(b)(8)(C).

Dated: August 29, 2017.

David Motl,

Acting Deputy Director, United States Mint.

[FR Doc. 2017–19005 Filed 9–6–17; 8:45 am]

BILLING CODE P

FEDERAL REGISTER

Vol. 82 Thursday,
No. 172 September 7, 2017

Part II

The President

Proclamation 9634—National Day of Prayer for the Victims of Hurricane Harvey and for Our National Response and Recovery Efforts

Federal Register
Vol. 82, No. 172
Thursday, September 7, 2017

Presidential Documents

Title 3—

The President

Proclamation 9634 of September 1, 2017

National Day of Prayer for the Victims of Hurricane Harvey and for Our National Response and Recovery Efforts

By the President of the United States of America

A Proclamation

Hurricane Harvey first made landfall as a Category 4 storm near Rockport, Texas, on the evening of August 25, 2017. The storm has since devastated communities in both Texas and Louisiana, claiming many lives, inflicting countless injuries, destroying or damaging tens of thousands of homes, and causing billions of dollars in damage. The entire Nation grieves with Texas and Louisiana. We are deeply grateful for those performing acts of service, and we pray for healing and comfort for those in need.

Americans have always come to the aid of their fellow countrymen—friend helping friend, neighbor helping neighbor, and stranger helping stranger—and we vow to do so in response to Hurricane Harvey. From the beginning of our Nation, Americans have joined together in prayer during times of great need, to ask for God's blessings and guidance. This tradition dates to June 12, 1775, when the Continental Congress proclaimed a day of prayer following the Battles of Lexington and Concord, and April 30, 1789, when President George Washington, during the Nation's first Presidential inauguration, asked Americans to pray for God's protection and favor.

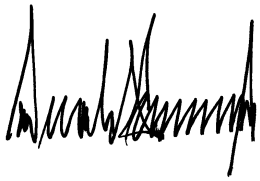
When we look across Texas and Louisiana, we see the American spirit of service embodied by countless men and women. Brave first responders have rescued those stranded in drowning cars and rising water. Families have given food and shelter to those in need. Houses of worship have organized efforts to clean up communities and repair damaged homes. Individuals of every background are striving for the same goal—to aid and comfort people facing devastating losses. As Americans, we know that no challenge is too great for us to overcome.

As response and recovery efforts continue, and as Americans provide much needed relief to the people of Texas and Louisiana, we are reminded of Scripture's promise that ''God is our refuge and strength, a very present help in trouble.'' Melania and I are grateful to everyone devoting time, effort, and resources to the ongoing response, recovery, and rebuilding efforts. We invite all Americans to join us as we continue to pray for those who have lost family members or friends, and for those who are suffering in this time of crisis.

NOW, THEREFORE, I, DONALD J. TRUMP, President of the United States of America, do hereby proclaim September 3, 2017, as a National Day of Prayer for the Victims of Hurricane Harvey and for our National Response and Recovery Efforts. We give thanks for the generosity and goodness of all those who have responded to the needs of their fellow Americans. I urge Americans of all faiths and religious traditions and backgrounds to offer prayers today for all those harmed by Hurricane Harvey, including people who have lost family members or been injured, those who have lost homes or other property, and our first responders, law enforcement officers, military personnel, and medical professionals leading the response and recovery efforts. Each of us, in our own way, may call upon our God for strength and comfort during this difficult time. I call on all Americans and houses of worship throughout the Nation to join in one voice of prayer,

as we seek to uplift one another and assist those suffering from the consequences of this terrible storm.

IN WITNESS WHEREOF, I have hereunto set my hand this first day of September, in the year of our Lord two thousand seventeen, and of the Independence of the United States of America the two hundred and forty-second.



[FR Doc. 2017–19131
Filed 9–6–17; 11:15 am]
Billing code 3295–F7–P

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CFR Checklist. Effective January 1, 2009, the CFR Checklist no longer appears in the Federal Register. This information can be found online at **http://bookstore.gpo.gov/.**

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LIST OF PUBLIC LAWS

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